

**GUIDELINES FOR ESTABLISHING AND ADMINISTERING LAND DEVELOPMENT
AGENCIES IN THE DEVELOPING COUNTRIES**

**Ideas and Methods Exchange No. 69
Prepared for the Agency for International Development
Department of Housing and Urban Development
Office of International Affairs
Washington, D.C. 20410**

**GUIDELINES FOR ESTABLISHING AND ADMINISTERING LAND DEVELOPMENT
AGENCIES IN THE DEVELOPING COUNTRIES**

**Ideas and Methods Exchange No. 69
Prepared for the Agency for International Development
Department of Housing and Urban Development
Office of International Affairs
Washington, D.C. 20410**

HUD Contract Number: H-1899

Prepared by Alfred P. Van Huyck and Milton Kaplan

**PADCO, Inc.
1211 Connecticut Avenue, N.W.
Washington, D.C.**

August 1973

FOREWORD

The accelerating rate of urbanization in the developing countries has created enormous demands for land. United Nations population estimates indicate that urban centers in the developing countries will add an average of approximately 118,000 persons per day between 1970 and 2000; the equivalent of a new city of 1.6 million every fortnight.* In the face of this growth pressure the competition for urban land is driving up prices at alarming rates fueling land speculation, distorting urban development patterns, frustrating the public interest, and denying access to secure land tenure for the majority of the urban population who have low incomes.

This issue of the Ideas and Methods Exchange Series examines this crisis in urban land from the perspective of one instrument available to the public sector -- the Land Development Agency (LDA) -- through which the public interest can be represented in the urban land market. The IME is not intended to be an exhaustive study of world experience with LDAs, but rather a basic review of the key issues of concern and the preparation of recommendations and guidelines for the establishment and administration of LDAs. Its purpose is to stimulate interested persons to undertake further studies leading to the improvement of LDAs in the developing countries.

The concept of the LDA in its various forms goes back more than a 100 years. Many of the developing countries inherited the LDA format from their previous colonial rulers and continue to operate them in much the same way in spite of great changes in the scale of development requirements, the objectives of a free nation, and the limitations in management and capital resources. It is hoped that this IME will contribute to the rethinking of the purposes and operating methods of LDAs in order to encourage their growth and usefulness in responding to the urban land crisis.

The authors, Alfred P. Van Huyck, President of PADCO, Inc. and Milton Kaplan, Professor of Law at the State University of New York at Buffalo, share a common concern with LDAs dating back

*Growth of the World's Urban and Rural Populations, United Nations Department of Economic and Social Affairs, 1969, p.71, (calculated from Table 36).

to their assignment with the Ford Foundation working with the Calcutta Metropolitan Planning Organisation in India in 1963-1967. More recently they have been associated with the Karachi Development Authority, Pakistan working on a PADCO contract financed by the United Nations Development Program for the preparation of a comprehensive development plan for that major metropolitan center. In this IME they draw upon these experiences, their field observations in other countries, and various secondary source materials to prepare their recommendations for establishing and administering LDAs.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	
<u>Chapter I: The Typology of Existing LDAs</u>	
Agencies for Managing Government Lands	1
Agencies Performing a Particular Development Function or Closely Related Functions	2
Agencies Performing a Combination of Functions	2
Summary of LDA Experience	5
<u>Chapter II: Special Issues Concerning the LDA</u>	
Justification for a Single Purpose LDA	7
Linkages Between the LDA and Development Planning	8
Land Expropriation	8
The Concept of a Land Bank	10
<u>Chapter III: Planning for the Establishment of an LDA</u>	
The Task Force Organization	13
The Task Force Work Program	14
Quantifying the Scale of Urbanization	14
Review of the Private and Popular Sector Role in Land Development	15
Review of the Public Sector Role in Land Development	17
Identifying the Need for the LDA	21
<u>Chapter IV: A Possible Configuration of an LDA</u>	
National, Regional, and Local LDA Linkages	23
The LDA and Potential User Groups	25
Public Land Users	25
Private Sector Land Users	26
Popular Sector Users	26
Financing the Operations of the LDA	27
Land Bonds	27
Working Capital	28
LDA Revenues	29
Suggested Organization of an LDA	30
The Legislative Basis for the LDA	34
<u>Chapter V: Enabling Legislation</u>	
General Configuration	35
Illustrative Findings	35
Illustrative Policies	36

	<u>Page</u>
Illustrative Purposes	37
Legal Status of the Public Corporation.	37
Place of the Corporation in the Structure of Government	37
Composition and Major Organizational Features	38
Planning Powers	39
Area-Wide Planning.	39
Project Site Selection.	40
Project Planning; Nature and Stages	41
Planning and Control of Private Land Use.	42
Acquisition and Assembly of Land.	43
Acquisition	43
Land Adjustment	44
Relocation.	45
Site Improvements	46
The Distribution of Land.	47
The Nature of the Interests Alienated; Methods of Distribution	47
Restrictions and Conditions	49
Regularization of Unauthorized Holdings	52
Project Improvements and Services	52
Project Management.	53
Finance	54
Government Grants and Loans	54
Borrowing in the Private Market	54
Rents and Other Revenues.	55
Mandated Municipal Tax Levies	56
Exemption from Expropriation; Excess Expropriation.	57
Investment of Use of Surplus Funds.	57
Miscellaneous Fiscal Provisions	57
Relationships with Local Governments.	58
Contractual Relationships	58
Required Consultations.	59
Local Advisory Committees	59
Joint Participation in Subsidiary Corporations.	59
Miscellaneous Provisions.	60

INTRODUCTION

The starting point of all urban development is the land. Land is essential for siting the industry and commerce which will provide the jobs; the housing to provide shelter for the workers; the community facilities and open space to make the urban environment livable. Yet the provision of adequate urban land remains one of the most complex and unresolved bottlenecks in the entire development process.

The root cause of the land problem rests in the ancient concept of land as private property. All over the world, with few exceptions such as Tanzania and Communist China, land is for the most part in private ownership. From this basic fact stems the growing conflict between private rights and the public interest. The results of the private land market are clear. For most cities land speculation is the biggest game in town. Phenomenal rates of land value increase have been reported ranging from 10 percent per year to 25 and even 30 percent in many urban centers. Land speculation causes aberrations throughout the urban development process. It causes the spread of cities through the process of leaping over land tracts held out of the market for speculation. It causes uncontrolled growth and raises the costs to the public sector for the eventual installation of utilities and services. Premature subdivision creates difficulties for land assembly. It sets the short-term interest of the developer against the long-term interest of the public. In the process it effectively shuts out the low income family from land ownership, thereby giving rise to squatting.

It is not the point of the IME to recommend the nationalization of land as was done in Tanzania and has been recommended by various experts. There is much to recommend such a drastic step in theory, but in practice there is little likelihood that most political systems could withstand such a move without enormous ramifications in all other sectors because of the uncertainty such a step would cause. Even in Tanzania, which did nationalize the land, the government still must pay compensation for all agricultural crops and improvements when it institutes a change of land use. This has nearly the same effect as the more traditional use of eminent domain, but it has had the desirable effect of controlling land prices and limiting speculation for the most part. Tanzania also is not a typical case in that the level of urbanization is very low, less than 8 percent of the total population, and most land has traditionally been held by tribal groups on a communal basis.

Nonetheless, stopping short of nationalization of land, the public sector has a wide variety of instruments available with which to influence the private land market. Almost without exception they have failed the challenge. The public sector can influence the private market primarily through three basic activities: administrative, taxation, and direct intervention.

Administrative instruments are largely negative controls such as zoning by-laws, subdivision controls, building by-laws, and permits and approvals. These techniques suffer from a lack of administrative capacity in most local governments. There simply is not the local staff which can undertake the supervision and implementation of the controls. This results either in extremely long delays for the individual or forces him to go outside the official procedure. In Nairobi, Kenya the delays in getting proper building permission on a timely basis, in spite of initial efforts to cooperate, caused private developers in the Mathare Valley to go ahead without approvals and present the government with a *fait accompli*. The result was a much worse plan than might have been developed with government assistance. In Lahore, Pakistan it is estimated by the Lahore Improvement Trust that four out of five houses are built without authorization, only about half of which are of the shanty variety. In Tanzania, delays in getting official approvals can run typically for six months and involve more than a dozen different procedural steps for the individual.

A major part of the administrative problem is caused by the continued utilization of procedures left over from colonial days. The complicated and bureaucratic practices introduced by the colonial powers were designed to cope with a low level of urban growth and possibly to frustrate the rural population from attempting to relocate in cities. These practices, still enforced, are completely contradictory to the objectives of the new nations and to their general stated interest in greater social equity.

Under any administrative conditions it is unlikely that negative controls can contribute importantly to the solution of urban land problems in the developing countries. Regulatory measures such as zoning and building by-laws are not responsive to the real needs of urban development. Zoning officials, with their inherent bias to segregating land uses, fail to consider that the vast majority of urban populations are poor and, therefore, need to combine commercial, small industrial, and residential functions in the same neighborhood to minimize overhead costs, reduce transportation requirements and allow for full family participation in marginal economic activities. Building by-laws, though relevant for high standard construction are of only negative value in regulating the traditional housing of the poor. Some building codes attempt to differentiate between the two types of construction, and this is for the better. However,

any kind of construction regulation affecting the low income population will have a negative effect.

Another negative spin-off of elaborate and complicated procedures for land development is the potential for petty corruption. When the process involves a vast array of approvals and inspections it means that corruption can be, and often is, institutionalized in the system. In every land development agency or government regulatory institution there are rumors of corruption and in many it is openly discussed. The system itself then has a vested interest in causing delays until illegal payments are made. One approach to this problem has been instituted in the House Building Finance Corporation of Pakistan which, under the direction of their able managing director, has mandated that all files must clear an individual staff member's desk in two days. The result has been a great speed up in approvals and the cutting down of time in which an applicant can be exploited for graft.

The potential for controlling development through taxation on vacant land has been little utilized. Taxes are generally levied on the rental value of the property rather than on the true value and since vacant urban land has little rental value, it carries little or no tax. This, of course, directly contributes to land speculation by making the carrying costs of vacant land very low. In Karachi, Pakistan this tax on rental values is even further frustrated by private agreements between tenants and landlords which set a low rent for the housing unit and a high rent for fixtures such as fans. In one case a foreign expert paid an amount equal to the house rent for his ceiling fans. The Karachi Development Authority attempts to mitigate against the lack of taxation on vacant land by charging a non-utilization fee of 3 percent of the plot value, but this has little effect as land values are going up at rates of 12 to 20 percent per year. The payment of the additional fee is of little incentive toward development. Effective use of taxation power offers a great potential to insuring timely utilization of appropriate vacant lands for urban development (and to encourage urban renewal) while at the same time capturing at least part of the unearned profits of the land speculator. A serious review of property tax regulations should be a high priority item for any urban government. Unfortunately, a major change in urban property tax procedures requires a major political commitment which few governments are willing to risk.

Direct public intervention in the land market has been undertaken in most developing countries. The power of eminent domain, giving the public the right to acquire any property for a public purpose, is available to most developing countries. The application of such powers varies widely from country to country in respect of the definition of "public purpose", procedures, and compensation formulas. All too often the use of eminent domain

powers is slow and elaborate. The Housing and Land Development Authority in South Vietnam proposes to develop the Tuy Thiem Peninsula across the river from Saigon. This land has remained vacant because it is low lying and poorly connected to the city. It is clear that its strategic location makes it a key tract in the future development of Saigon. Squatter pressure is increasing along the periphery of the area. Time is short if the future development of the Tuy Thiem Peninsula is to be controlled in the public interest. Yet the government has resorted to a 40 year old French land acquisition law which makes no reference to urban development as a "public purpose". As a result the government faces court proceedings, no acquisition has been able to go forward, and the future of this important project is in doubt. The situation requires a new land acquisition act, possibly modelled upon that of Singapore.

Singapore's world reknowned success in massive public participation in the urban development process stems in part from an excellent land acquisition law. One of its noteworthy features allows the government to acquire land at market value minus any increase in land value accruing during the preceding seven years from public land development activities.

The cornerstone of public participation in the land market is modern legislation which broadly defines public purpose, establishes a payment formula which is fair by anti-inflationary and repressive to flagrant land speculation, and has clear and simple administrative machinery.

Even with a strong eminent domain law, government programs for extensive ownership of urban land face serious obstacles. Most often these include inadequate finance and administrative capacity. As a result public land development is usually confined to specific projects, such as public housing, at a scale which is not adequate to influence the overall land market. Most developing countries have experienced widespread difficulty in executing public land development projects on a timely basis. In general public authorities have looked upon their land development activity not as a business enterprise, but rather as a social overhead function of government. Nonetheless, it is the premise of this IME that direct public intervention in the land market offers the most promising approach to controlling urban development, reducing land speculation, and providing access to urban land to the low income groups.

This IME examines the typology of land development agencies currently operating in the developing countries. It generalizes some of the basic issues affecting the use of LDAs. It identifies some of the planning issues which need to be considered and, finally, it suggests a legislative configuration for an LDA designed to implement the main concepts of the IME.

CHAPTER I

THE TYPOLOGY OF EXISTING LDAS

Land Development, for the purposes of this IME, is defined as the process whereby land, in significant quantities, is assembled and acquired by a public agency, planned, equipped with appropriate infrastructure (roads, facilities, and utilities) and distributed to public or private users through dedication, sale or lease.

This definition is important because it distinguishes between the preparation of raw land for development and the process of construction on the land so prepared. As will be seen in the discussion below, most LDAs combine the function of land preparation with construction activities in some form. Secondly, it presupposes the development of land in significant quantities in which the public purpose is to act as a catalyst in the process whereby raw land is made available for development largely by private enterprise, but within the framework of the public interest.

Our research revealed no existing LDA designed for the exclusive role of providing vacant developed land to guide urban development. However, a number of government agencies have attributes, legal powers, and related functions common to the above conception of an LDA. These agencies can be grouped into three basic types: 1) regular government departments with land management functions; 2) specialized agencies, such as housing authorities, which have a land development function ancillary to their basic purpose; and 3) agencies performing a combination of functions.

Agencies for Managing Government Lands

These are normally regular departments of other divisions of national, state, or provincial governments. They are concerned largely with the management and distribution of public lands which have not been designated for particular urban uses, and rarely with the development of land to meet urban social objectives. We take notice of them here because their enabling legislation deals with some important functions of LDAs, such as policies and procedures for distribution of land for public and private consumption.

Agencies Performing a Particular Development Function or Closely Related Functions

Most of the agencies in this category which have been drawn upon in constructing our simulated LDA are semi-autonomous, as distinguished from departments, bureaus, or other divisions of general purpose governments. Even if not explicitly accorded corporate status, they ordinarily have many of the attributes of private corporations. Some of the more familiar special agencies dedicated to particular objectives are housing corporations or authorities; public authorities concerned with the development and provision of water supply, sanitation, drainage services, or a combination of such services; urban renewal agencies; slum clearance and rehabilitation agencies; new town development corporations or authorities; and agencies for the resettlement of refugees.

The Housing and Land Development Agency (HLDA) in South Vietnam is an example of a specialized agency with ancillary land development functions. Its organization is shown in Chart I. The HLDA is responsible for managing approximately 25,000 dwelling units throughout the country. It has a staff of approximately 300 persons. The HLDA has had numerous problems caused by uneven financing and the lack of a workable land expropriation law. Its officers believe they have the capacity to develop 100 hectares of new urban land each year, but their rate of production falls short of this goal. Most of their housing developments are designated for civil servants, but several projects such as the Tanda housing estate have remained vacant after completion because of difficulties in getting ministries to make assignments of their staff to the housing. This is in part the fault of some defects in the site engineering and site location of the housing coupled with a general reluctance on the part of residents to pay their rents. Recommendations for the reorganization of the HLDA, which are discussed later in this report, were made by a consulting firm under contract with the Agency for International Development. These recommendations have not been acted upon as yet because they are not in conformity with government procedures.¹

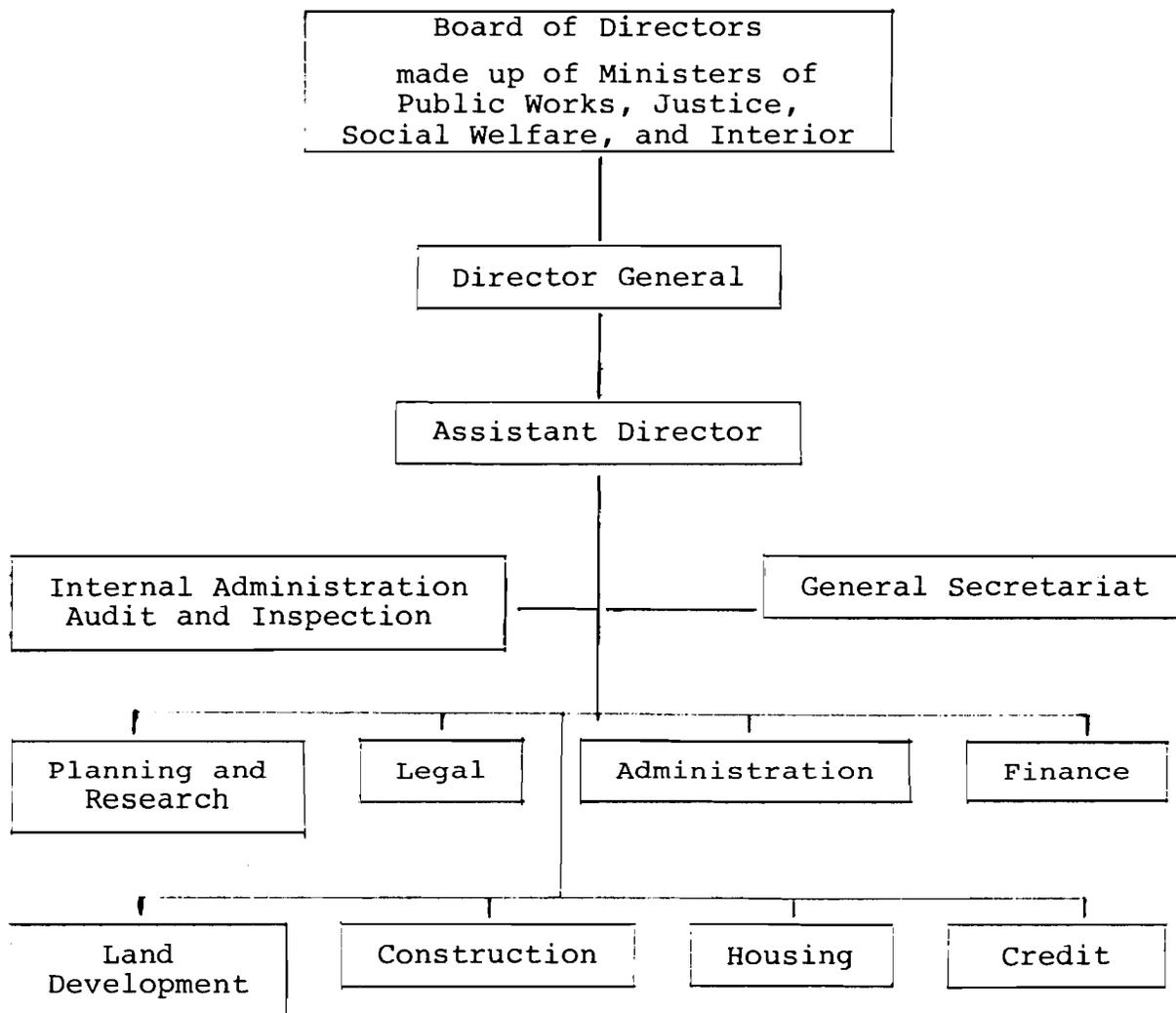
Agencies Performing a Combination of Functions

Most of the multi-purpose agencies within our frame of reference are similarly semi-autonomous or corporate, though some significant exceptions will be noted. Some of the agencies in this category have been vested with a full range of responsibilities for urban development and redevelopment. They are exemplified by

¹ Interview between officers of the HLDA and Mr. Van Huyck in February, 1972.

Chart 1

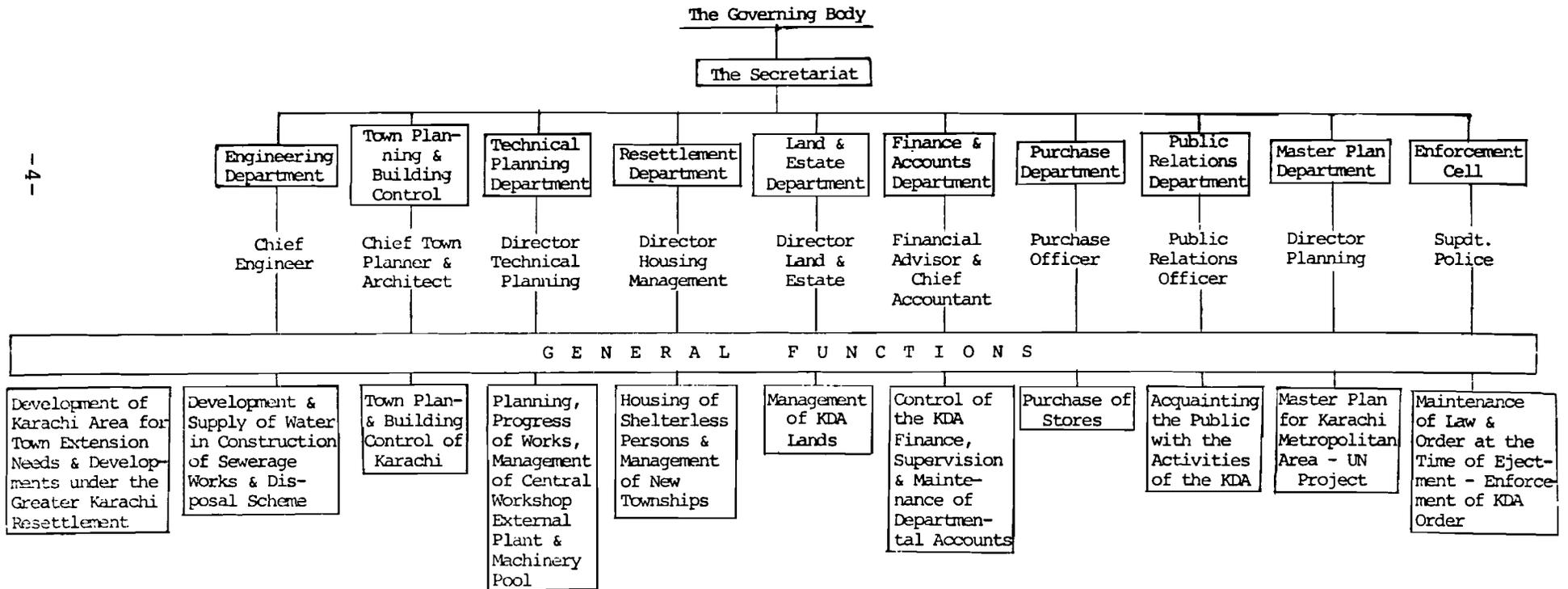
The Organization of the Housing
and Land Development Agency
in South Vietnam



Source: Housing and Land Development Agency, South Vietnam.

Chart 2

Organisational Chart of the K.D.A.



Source: Karachi Development Authority.

the improvement trust or development authority varieties inherited from the British by a number of Asian and African countries. Typically, the Karachi Development Authority², a successor to the Karachi Improvement Trust, is empowered to undertake general environmental improvement projects; housing, street construction, redevelopment, drainage, sewage disposal, water supply, and other health and welfare schemes; and lay out and develop new neighborhoods or communities. The organization is presented in Chart II which illustrates this mix of functions.

A more modern version, the New York State Urban Development Corporation, may "acquire, construct, reconstruct, rehabilitate, improve, alter or repair or provide for the construction, reconstruction, improvement, alteration or repair of any project," including a land use improvement project, a residential project, an industrial project, a civic project (for educational, cultural, recreational, community or other civic purposes), or any combination of these.³

Less comprehensive and sometimes unique combinations of functions relating to land constitute another subclass. Hawaii's Board of Land and Natural Resources, the executive entity for the Department of Land and Natural Resources, is charged not only with the general administration and distribution of public lands, but also with the special mission of correcting the Island of Oahu's shortage of residential land.⁴ The fundamental purpose for the creation of Puerto Rico's Land Authority was rural land reform, yet the Authority has been endowed as well with the power to provide means for "slum dwellers to acquire parcels of land on which to build their homes"⁵.

Summary of Experience

In reviewing the experience of existing LDAs it soon became obvious that there were no readily available models which express the central concern of the IME for a vehicle which can successfully intervene massively in the land development market and represent the public interest. Therefore, our review concentrated primarily on the powers of various agencies in order to provide precedents for the outline of appropriate enabling legislation required for the kind of LDA which is recommended.

²Karachi Development Authority Order, 1957 (President's Order No. 5 of 1957).

³New York State Urban Development Corporation Act, L. 1968, Ch. 174; McKinney's Unconsolidated Laws, Sec. 6251-85.

⁴Hawaii Revised Statutes, Ch. 171, Management and Disposition of Public Lands.

⁵Land Law of 1941, Laws of Puerto Rico, Ann., Tit. 28, Part 2, Sec. 241-373.

The various agencies reviewed suffer from common problems which limit their effectiveness as land development agencies. These common problems can be listed as follows:

1. They generally have a project by project orientation rather than a program orientation in which the mechanism is geared to provide a steady flow of land, housing, renewal, or whatever their main focus of interest is. Therefore, with some exceptions their scale of operations is too small for impact on central problems.

2. Their sources of finance are often uneven and subject to the whim of annual appropriations and rarely at a scale sufficient to make a major programming effort.

3. Their planning is limited both internally and externally in terms of not being linked with major development strategies at the metropolitan and national scales.

4. Their administrative mechanisms tend to be slow and bogged down through elaborate procedures.

5. They frequently suffer from a lack of full political support in terms of overall program and too much political interference in terms of project implementation.

These central issues must be addressed if the LDA is to be an effective instrument of public policy.

CHAPTER II

SPECIAL ISSUES CONCERNING THE LDA

Many issues can be considered critical in establishing an LDA. This IME touches on a number of them throughout the text. In this chapter four special issues are discussed: the justification for a single purpose LDA; the link between the LDA and development planning; land expropriation; and the concept of a land bank.

Justification for a Single Purpose LDA

Chapter I noted that there are no LDAs solely providing developed land for various kinds of users in the public and private sector independent of other development functions. The land development function is therefore subordinate to one or more other functions of the LDA such as housing construction, etc. This results in the use of the land development power primarily to service the other functions of the agency which, in turn, leads to a project by project approach. Land is acquired when needed and in relatively small quantities. All agencies with land acquisition powers essentially become individual participants in the private land market. When this is coupled with the elaborate procedures and delays encountered in most land acquisition processes the result is inefficiency, higher costs, and a frustration of the public purposes for which the land is desired.

When an agency has a primary function for which land development is a minor part, the management skill is focused on the major function, the agency's objectives are limited, and the use of financial resources is diffused. In short, such agencies are not well equipped to attach the primary objectives of land development in the broad perspective of influencing the private land market, curtailing land speculation, and insuring a steady flow of urban land to all user groups.

The central position of this IME is that a separate LDA solely responsible for insuring a steady supply of land for urban development is needed in many developing countries. Such LDAs will require their own finance mechanisms, wide powers within which to operate, and their own management expertise. Land development, therefore, should be a separate public function and not a subordinate part of other public functions, such as housing construction.

Linkages Between the LDA and Development Planning

If the LDA is to work solely on the preparation of large land areas for development it will necessarily be brought into the process of urban physical planning and overall development planning. Therefore, the role for the LDA must be defined to provide the basis for coordination and cooperation with other agencies.

The LDA should have its own land planning capability. It will require a staff of urban planners, economists, sociologists, engineers, and architects. These are very much the same skills that would be found in a metropolitan planning agency, but the mission of the two groups should be different. The LDA should focus its planning efforts on the physical layouts of the land to be developed supported by necessary social and economic analysis. It should work within the overall comprehensive planning guidelines established by the metropolitan development planning agency. It might, if appropriate, have membership on the metropolitan planning agency's policy making senior level, but the technical staffs should be separate.

The metropolitan planning organization must have a much broader mission of social and economic planning than would concern the LDA. It would also have responsibility for the planning of the existing built-up area of the city, the overall transportation network, utility system, and community facilities. These responsibilities require that the planning function be related directly to the highest levels of government to insure the participation and cooperation of a wide range of other specialist agencies.

The metropolitan planning organization should also have the primary links with the national economic development planning effort. Nonetheless, the LDA should have strong informal contacts at the national level as well, working through the metropolitan planning organization if possible, so that the overall land development program can reflect national urban strategy requirements.

Land Expropriation

The ability of the government to expropriate land for the sole purpose of encouraging orderly development of urban areas is critical. The right of eminent domain goes back hundreds of years, but its application to urban development has been a matter of intense discussion and litigation only during the last twenty years or so. The older expropriation laws are generally vulnerable to constitutional attack when utilized for land banking purposes.

The 1930 law in South Vietnam illustrates this point. The law confines the public uses for which private land can be expropriated narrowly to military use, public works, and public facilities. It prohibits the resale of expropriated land to private interests except to the original owner. The basic law still in use in India and Pakistan today is the Land Acquisition Act, 1894.

The situation is slowly changing and more and more countries are attempting to include a broader definition of public purpose in their expropriation laws. For instance, Article 22 of the Bolivian Constitution states: "Private property is guaranteed when and if its use is not prejudicial to the collective interest. Expropriation is imposed for reasons of public utility or when the property does not fulfill a . . . social function, in accordance with the law and with prior just compensation." Under Pakistan's new Constitution the guarantee of private property rights does not affect the validity of "any law providing for the acquisition of any class of property for the purpose of . . . providing housing and public facilities and services such as roads, water supply, gas and electric power to all or any specified class of citizens . . ."

The Nigerian development plan states that "During the plan period, the Government will reinforce existing legislations on public land acquisition and streamline the compensation procedure with a view to minimizing land speculation and eliminating 'un-earned' incomes." As already noted, Singapore has also pioneered in using land acquisition as a tool to combat land speculation.

Taiwan's Equalization of Urban Land Rights Act, originally passed in August, 1954 and subsequently amended is particularly innovative in that it requires the owner of the land to step forward and declare the value of his property for tax purposes. If he underdeclares his property value, after an initial warning from the Urban Land Value Assessment Committee the land can be purchased at its declared value by the government. This simple process overcomes the enormous problem of land value assessments which are a primary cause of failure to obtain adequate returns on the property tax in many countries. Furthermore, the act provides for the purchase of property to be paid for in part by land bonds which reduce the immediate cash outlay of government. If it can be assumed that rising land values will continue at a percentage rate higher than the interest payment on the bonds it should be possible for the government to participate in the land market at little or no cost to itself.

These two innovations in the act offer the potential for governments to influence the operations of the land market, control speculation, increase property tax revenues by better assessment practice, and more effectively control urban growth. However, the law has never been successfully utilized to its potential because of a lack of enforcement follow-up and the difficulty in plugging its loopholes.

Once again we are reminded of the basic requirement that there be the political will to implement the laws once enacted. Over and over again the effectiveness of the most modern legislation is blunted during implementation. It is essential that the expropriation law of the country be modernized and reflect the broadest possible interpretation of the public interest. It should contain provisions for a "quick taking" to enable the government to occupy the site while the courts determine the level of just compensation.

The Concept of a Land Bank

The concept of an LDA, as separate from land acquisition functions needed for a housing agency or new town corporation, is that the LDA would be attempting to participate directly in the land market to insure that an adequate supply of urban land will be made available primarily for private development on a regular on-going basis. The main objectives of this process are:

1. To assure the orderly growth of the urban area through direct control of urban land.
2. To ensure that the land requirements of all user groups, particularly low income people, are met on a regular, on-going basis.
3. To control land speculation and indirectly encourage investment in more productive areas compatible with national development goals.
4. To assist in achieving social equity goals through redistribution of wealth.

Land banking can be defined as "A system by which a government entity acquires a substantial fraction of the land in a region that is available for development for the purpose of controlling the future growth of the region."⁶

Land banking has been used successfully for many years in Sweden and the Netherlands. Saskatoon, Saskatchewan in Canada has utilized land banking principles since the 1930's, and a recent study has concluded that the land costs in that city have been held below those in comparable cities in Canada and that the resulting urban development has been planned in a rational and efficient manner.

The United States has never passed land banking legislation, but it has numerous proponents among professionals in the urban development field. The important National Commission on Urban

⁶The American Law Institute, A Model Land Development Code, Tentative Draft No. 5, March 30, 1973, p. 50.

Problems in 1968 recommended that legislation be passed which would allow governments "to acquire land in the advance of development for the following purposes: (a) assuring the continuing availability of sites needed for development; (b) controlling the timing, location, type and scale of development; (c) preventing urban sprawl; and (d) reserving to the public gains in land values resulting from the action of government in promoting and servicing development."⁷

The main arguments against land banking deal primarily with the imposition on the traditional guarantees of private property. It is argued that land banking will lead to nationalization of land. It is also pointed out that the agency responsible for the land banking system will have enormous power and, therefore, great potential for political intervention and corruption.

Simon Miles summed up the current emotional issue when he wrote:

"The emotional association of freehold land ownership with the free enterprise system will take a long time to change. Until society realizes that one can still have a free enterprise economy operating on leasehold space, it is unlikely that the cost of housing and many other urban services will be prevented from escalating at rates faster than that of inflation."⁸

Karachi, Pakistan has been favored with an enormous public land reserve. The Karachi Development Authority has been the body most responsible for guiding the development of this land. Overall the KDA estimates that 1.3 million people have benefited from their land development schemes. The experience of the KDA with land banking has not been entirely successful. The KDA has, in fact, contributed to land speculation through the premature sale of large land tracts to housing societies and individuals. The result has been unplanned, inefficient growth in some areas of the city and a failure to ensure that the appropriate supporting infrastructure was ever provided. In part this premature sale was a reflection of intense pressure from individuals and groups desiring land and also the reality that the KDA was supposed to be a self-financing agency and they needed to sell land in order to obtain resources for overall operations. In 1970, there were some 12,500 acres of vacant, developed plots in the city, yet new vast vacant land sales are being contemplated. The KDA originally was selling its developed plots at actual cost and since the land cost was nominal as it was already in public ownership the total sale price was grossly below market prices. The result was an immediate windfall profit to those who obtained plots. The KDA is now using more

⁷ National Commission on Urban Problems, Building the American City, 1968, p. 251.

⁸ Simon Miles, Developing a Canadian Urban Policy: Some Lessons from Abroad.

realistic price policies, but the premature land distribution continues to be a fundamental problem. The lesson to be learned from the KDA experience is that administration and land management are important aspects of the land bank system and will in the end determine its success.

The available literature on land banking does not indicate any guidelines on what scale of operations are necessary before a certain desired impact is achieved. This important question should be given a high priority in the planning for a land banking system. It can be assumed that if the public sector is a participant in the land market at a significant scale it will not only control land prices on its own sales or leases, but indirectly influence prices in private transactions as well. At what point this effect will be achieved should be the threshold point for an effective land banking system. It should not be necessary to control the entire land market to achieve the desired objectives. On the other hand, if the land bank is too small, it is unlikely that any material dampening effect on land speculation will take place.

CHAPTER III

PLANNING FOR THE ESTABLISHMENT OF AN LDA

At the heart of the matter is the political commitment of a national government to confront the problem of urban land supply head-on.

This is no easy decision because often the major vested interests in urban land are deeply imbedded in the government itself. There really is little sense in attacking the problem unless the mandate comes directly from a cabinet level decision at the central government. There is little purpose in the creation of inadequate, underfinanced LDAs whose scale of operations will not affect the urban land market.

The form in which political commitment can be made is varied, but one useful way to proceed would be to establish a central government task force on the preparation of a National Urban Land Policy which in turn could form the basis for enabling legislation for the formation and operation of LDAs (see Chapter V for a suggested coverage of such legislation).

The Task Force Organization

The eventual development of LDAs along the lines recommended in this IME will impact agencies at all levels of government. It is, therefore, important to involve these groups early in the planning process. The group should consist of a policy making body and a technical staff seconded from appropriate agencies.

The policy making body should include senior representatives from the key ministries which would vary from government to government, but generally would include: the ministries of economic development, finance, urban planning and housing, land management, legal affairs, and interior. Representatives from the provincial or state governments should be included and several of the major urban areas should be represented. There are, of course, problems with using a relatively large policy making group in terms of assembling them for meetings and obtaining active participation. Nonetheless, such an approach is better than giving the assignment to a single ministry and then having the results reflect a narrow range of opinion and be subjected to the criticism of all the other affected parties. This is much the same concept as not having a ministry of housing formulate national housing policy because of its implications for other ministries and levels of government.

The chairman of the policy making body should be the most senior officer and someone who can report directly at the cabinet level.

Such a policy making body is nearly useless without a technical staff which can prepare the working papers. In this case there is a sizeable technical job to be done in analyzing the situation and preparing recommendations. For the simplest technical format, it might be possible to assign the staff function to one agency such as the ministry of economic development or a national planning commission. An alternative approach is a special technical team. The advantages of a technical task force seconded for the work are that it would bring together diverse disciplines and more or less reflect the distribution of interests on the policy panel. The disadvantages are that existing agencies are reluctant to allow their best people to be seconded to special projects and, therefore, organizing a quality staff might be difficult. There is no one way that is best since local conditions should prevail. The kinds of people required in either case would include macro and urban economists, legal experts versed in land law, demographers, sociologists, public administration specialists, urban planners, and public finance specialists.

It is not recommended that representatives of private land interests be included either on the policy making panel or the technical staff primarily because of the difficulty of identifying a representative for all of the divergent private interests. It should, however, be incumbent upon the task force to solicit actively the views of private land interests in order to devise recommendations which, while achieving the public purposes, cause the minimum hardship to the private sector.

The Task Force Work Program

The work of the task force should be considered from the beginning as a significant technical undertaking because it is not only to detail whether or not there is a need for an LDA concept, but if so, how the concept is to be applied in its legislative, administrative, financial, and technical aspects. This is no small task. Its difficulty will in large measure be determined by the amount of source materials already available from such work as the preparation of national economic plans and the nature and quality of urban planning efforts in various key cities. The work program should consist of four parts.

Quantifying the Scale of Urbanization

The actual rate of urbanization and the estimate of the amount of land required for this process on a national scale must be determined. This will require estimating national population growth and the distribution of that growth to the various urban centers.

The patterns of migration within the country will be of particular relevance for study along with trends in household formation and family size. The estimates for projected growth rates in the various economic sectors should be obtained from the appropriate agency. This information should be analyzed for its impact on overall urban growth potential and for likely effect on individual urban centers. The relationship between estimated population and estimated economic growth related to individual urban centers will indicate likely consequences for employment, unemployment, and income distribution. Starting with the existing land use distribution within urban centers and using established criteria based on the demographic, economic, and social analysis, crude projections of aggregate land requirements for future urbanization can be established covering the broad categories of residential, industrial and commercial and public land.

The purpose of this analysis, which will obviously be more complicated and demanding than indicated in this summary, is to prepare a reasoned estimate of the basic requirement for land for urban expansion and its approximate distribution among the major urban centers. In addition, the total requirement will be refined to the point that there will be a relationship between aggregate land demand and the ability to pay for land among the competing residential and non-residential groups. In total this will crudely define the nation's urban land requirement. Next it will be necessary to establish whether or not meeting this requirement will be a problem.

Review of the Private and Popular Sector Role in Land Development

In analyzing the role of non-governmental participation in the urban land development process it is useful to draw a distinction between the private sector and the popular sector. The private sector is defined as consisting of organized commercial interests and individuals concerned with high standard development. The popular sector is defined as informal small contractors and individuals seeking low cost, low standard development. The latter group are for the most part the low and lowest income groups, although not in every case as various studies have shown that middle income people participate in the popular sector development activities out of choice. In a given country context these definitions can be given more specificity. The distinction is important, however, because the urbanization of land by the popular sector is a different kind of process and problem which must be recognized and dealt with explicitly in public policy (see discussion below).

It is first necessary to study the land ownership patterns in the areas anticipated for future urban growth. The nature of ownership may vary greatly from country to country. Land may be held

communally by tribal groups as in certain African countries. It may be held in vast tracts under the control of a single family as in the case of many of the Latin American countries. It may be held in an almost limitless number of small holdings as in many Asian countries. It is highly likely that land title will be clouded and that individual boundaries will be known by traditional or historical precedent rather than survey. These differences will present different problems to be considered in establishing land policy.

It is also necessary to consider existing land use in potentially urban lands. The conversion of fertile agricultural land into urban development has proven to be a problem in many cities. As the city grows valuable agricultural land is lost and the food supply requirements of the city must be met through importing from ever greater distances. It may be essential to make the preservation of the most productive agricultural lands a priority issue in the preparation of land policy. Various incentives and regulations can be formulated to insure the preservation of agricultural land, but this in turn makes the problem of providing land for urban expansion more critical. In the East Ghor Valley of Jordan, for instance, the decision was taken to prevent any urban settlements from occupying land which could be brought under irrigation. This decision wisely accepted the fact that the cost of urban services might be somewhat higher, but the need of the country to maximize food production was of paramount importance. In Karachi, Pakistan the determination of which land was suitable for agriculture was a primary determinant in planning for the future urban form of this major metropolitan center.

Then the process whereby land is made available for urbanization should be studied. To a greater or lesser extent there will be the rudiments of a private real estate market with known procedures. It would not be unusual to find that this market is working in various extra legal means to avoid various government regulations and taxation. The extent and nature of these procedures should be identified. The terms and conditions of sales or long term leases should be established and the sources of funding identified. There may or may not be regular credit mechanisms available for financing land purchase. If there are they should be studied to see who can participate and under what conditions. From this analysis the likely trends in land ownership should be established assuming the continuation of the current process.

The role of the private corporation and organized commercial interests should be studied. These groups primarily will be concerned with the building process for houses and non-residential buildings, but they must start with the problem of land. The relationship of land supply to their activities is important because the unavailability of land at a reasonable cost may be a major

constraint on the capacity of these groups to meet urban development requirements. It is also important to ascertain the policy perspective of the commercial developers with regard to their responsiveness to various income groups and the total needs of the city for development. A determination should be made of the potential of the commercial developers to play an expanding role in city growth based on their managerial skills, access to development finance, and land.

Special attention should be given to the popular sector in the process of land development. The majority of the urban population will participate in the popular sector development activities. In many urban areas such as Karachi the popular sector accounts for two thirds of the development activity. It is likely that in most countries the popular sector will have severe problems in gaining access to land for urban development. This is, of course, primarily because of an inability to pay, but also a matter of obtaining access to land in locations which are responsive to their needs. Frustration of the demands of the popular sector for land tenure results in massive squatting in most urban centers throughout the developing world.

The process of squatting and how squatters are organized needs to be carefully studied. Governments have attempted various means of combating the squatting problem. Many of these techniques have involved the use of the police power in various forms, from the forced resettlement of squatters in Karachi, Manila, Seoul, and scores of other cities to the arbitrary burning of squatter huts in Nairobi, Kenya or the roundup of squatters and their forced repatriation to rural areas. None of these techniques have worked and as a result many governments are beginning to respond to the needs of the popular sector through sites and services projects. Sites and services projects, if truly responsive to the total needs of the popular sector, are potentially major consumers of urban land. The means whereby this land will be obtained and made available will be a crucial determinant of future urban form.

In summary, this section of the work program of the proposed task force is focused on understanding the actual process of how land is made available for urban development for the private sector and the popular sector. This is essential information in order to understand how the public sector influences this process and interacts with it.

Review of the Public Sector Role in Land Development

The public sector influences land development in a variety of ways from direct intervention to indirect policies on taxation. The task force will need to study this entire process in order to

ascertain how public actions are influencing land development. Such a study must start with the goals and objectives of the government which have a direct or indirect effect on land. These will be found in various government documents such as the national economic plan, national urban policy, national housing policy, etc. Special attention should be given to comparing stated policy goals with actual actions and, therefore, real policy goals. These may indeed be different and possibly contradictory. The task force should attempt to assemble the goals statement dealing with the urbanization process and identifying the role the public sector is being asked to play.

Next an exhaustive search of the existing legislative base affecting land should be undertaken to see whether or not existing legislation is compatible and complementary to the goals. This review should include: urban planning law; the enabling legislation of agencies concerned with urban land such as those listed in Chapter I on LDA Typology; the codes and by-laws at all levels of government affecting land use controls such as zoning and subdivision and building codes; the laws covering eminent domain; property taxation laws; special laws covering landlord tenant relationships; laws affecting development finance; and various special laws which deal with special interest groups in relation to land development such as provisions for industrial workers housing or civil servants housing. Just from this list it can be seen that the legislative review is a major undertaking. Frequently it has been found that law has been piled upon law in many countries to the point where the development process has been twisted in response to the legislation instead of the development objectives of the country. It is particularly important that the effect of legislation on the various groups, particularly the popular sector, be considered.

The study should analyze the public agency role in land development. This would include land management functions such as performed by the Ministry of Lands in Tanzania or Kenya relating to land registration, subdivisions, and urban planning approvals. It would cover the activities of single purpose agencies, such as national housing corporations, new town corporations, etc., in which land development is a significant function. And it would cover multipurpose agencies such as the Asian improvement trusts. The purpose would be to assess both the quality and efficiency of their operations and the scale of their activity in relationship to the potential need. This is an important review because in many countries the basic administrative process is so complicated that it is impossible for the system to cope with the needs of the people. This is illustrated in the example drawn from Tanzania which is typical of the countries emerging from the British colonial tradition.

The mechanism for acquiring and preparing land for urban use is based on procedures established during the colonial period when urban centers were small, growing slowly, and the primary task, as far as residential development was concerned, was to provide a reasonable facsimile of what the British considered as proper residential development. Basically, the process consists of the following steps:

1. A new area for development is designated and a request for the preparation of valuation schedules is made. Valuation of crops is done through the Area Commissioner. The Valuation Division of the Lands Ministry determines the unexpired value of structures.
2. Agreements on final compensation are negotiated between the Regional Land Office and the existing land holders.
3. Lands request payment of compensation by the Treasury. Once compensation is paid, rights under customary tenure are officially extinguished, government has title to the land, and existing tenants can be cleared. Existing compensation rates and the ease with which new squatting areas can be formed tends to mitigate against obstruction from those who are forced to move. One can only assume that the large renting population common to squatter and traditional settlements bears the major hardships imposed by this process.
4. A subdivision scheme is prepared by the Division of Town Planning.
5. The area is cleared for survey. This is normally done by the Lands Division either through its own staff or on a contract basis. Houses are usually given for their materials, to anyone who will clear them.
6. All plots are surveyed and beacons by the Survey Division. Occasionally National Housing Corporation is given blocks of land for its own housing estates.
7. The Survey Division prepares and submits a survey map to the Lands Division. After approval of the map by Town Planning and Lands Division, plots can be given under right-of-occupancy agreements to individuals. Also, the laying of infrastructure can commence, provided funds and manpower are available.
8. Plots in high demand are often offered for tenders on the premia, usually going to the highest bidder. Other plots go to applicants on a first come, first serve basis. Application is made through the Regional Land Office.

9. Upon application, the Regional Land Officer determines if an acceptable plot is available. When this is the case, the applicant completes a standard form.

10. The Regional Land Officer submits the application, with a covering letter, to the Lands Division.

11. The Lands Division requests an assessment of land rent and premia by the Valuation Division and recommendations on development conditions from the Town Planning Division.

12. The application is submitted to the Commissioner of the Lands Division for approval.

13. A right-of-occupancy is issued through the Regional Land Office.⁹

The entire administrative process is designed to deal with the individual applicant on a plot by plot basis. Since the vast majority of the urban population are ill-equipped by education or background to deal with such an elaborate administrative system, the net effect is essentially to bar a large part of the population from legal access to land.

This aspect of the task force study will require working directly at the local level of government with the public agencies and institutions involved in land development. It will also be necessary to explore what the capabilities of the public sector are in the provision of infrastructure and public facilities in support of land development. A frequent problem is that land scheduled for development languishes for years with inadequate or incomplete infrastructure, benefits of the project are not realized and the cash flow problem is increased because capital initially invested is not recovered because of the failure to complete the project.

The financial mechanisms available to the public for influencing land development should also be analyzed as to the source of funds, their availability, and utilization. The aggregate amount of public funds utilized annually for land development should be determined and the process whereby the funds are recovered from sales, leases, or fees analyzed. If subsidies are a regular amount of the process, the nature of the subsidies and the amount should be determined. The effect of the use of subsidies on the land market should be studied.

⁹ PADCO, A Proposal for an Urban Development Corporation in Tanzania, December, 1969, pp. 18-19.

In summary, this aspect of the task force's work program is to provide a comprehensive overview of the public's role in land development, to measure its capacity to effect the land market and meet the needs for urban land, and to itemize the process.

Identifying the Need for the LDA

The scale and depth of the study recommended here will vary from country to country, but in most cases it will represent a major effort to ascertain the basic situation with regard to the urban land development process. The output of the study will be an estimate of the aggregate demand for urban land by urban center and major user groups, the analysis of the private and public sector ability to respond to this demand, and an analysis of the existing role of the public sector and its capacity for responding to the need for urban land development. When taken as a whole the study should identify the specific problem areas in which action must be taken and what combination of steps are required.

The decision to establish an LDA should not be taken lightly. It represents a major undertaking of government and to a greater or lesser extent in a given country context and expansion of public power into the area of private property rights. Such an intervention may well be necessary in order to achieve the public purpose, but alternative actions, particularly those utilizing the tax power, should be considered also, perhaps in combination with the LDA.

Taxation or the levy of special fees on land has considerable theoretical potential. This IME is not intended as a discussion of property taxation, but before undertaking the establishment of an LDA the potential of taxation should be fully studied. There are typically several types of taxes oriented to insuring government participation in increases of land values. Such taxes include property taxes on the true value of vacant land rather than on its use or rental value as is often the case in the developing countries. There are also land transfer taxes, capital gains taxes, and betterment taxes which are currently in use in given situations.

The main problem with the use of taxation as a device for achieving public purposes, other than purely raising revenue, is that direct taxation has been traditionally hard to enforce in the developing countries. For instance, in South Vietnam it is reported that less than 50 percent of the taxable land is actually on the tax roles. Of the taxes billed only about 30 to 40 percent are collected. Furthermore the law does not provide for the power to put a lien on real property for non-payment of taxes and, in

any case, the typical assessments are very much below true value or market value.¹⁰ It may be too politically sensitive and more complicated to reform the tax system than to utilize the LDA concept for direct intervention. Nonetheless, tax reform should be a high priority in most developing countries.

¹⁰ Wurster, Bernardi and Emmons, Inc., Housing and Land Development Agency Organization Plan, South Vietnam, July 31, 1972, p. 19.

CHAPTER IV

A POSSIBLE CONFIGURATION OF AN LDA

Once the decision is taken to form an LDA there is still a wide set of choices as to how the LDA should be organized, financed, and operated. The conclusions reached in this report as to the basic principles for the LDA can be summarized as follows:

1. The LDA should be organized and financed to have a substantial impact on the land market in the area in which it operates.

2. The LDA should be organized as a semi-independent public corporation working on a businesslike basis.

3. The LDA should be self-financing and attempt to generate surpluses wherever possible for use in reducing costs to low income land users.

4. The LDA should have a broad range of legal powers.

5. An LDA should only be organized when it is clear that the private land market is not responsive to the needs of orderly urban development, the rate of urbanization is rapid, land speculation is active, and there is evidence that the legitimate needs of low income people for legal land tenure are being frustrated on a wide scale.

National, Regional, and Local LDA Linkages

The first issue to be considered is whether or not the LDAs in a given country should be linked into some form of grouping. This will in part depend on the number of LDAs which may be required in a country. It is probable that the primate city in each country should have its own LDA. In larger countries which have a hierarchy of cities there may be a need for LDAs in other urban centers as well. Criteria can be established to make this determination after study in each situation. The criteria might cover such things as:

1. The rate of urbanization (say cities with over 6 percent growth per year).
2. The amount of land required (say a minimum need for 1,000 acres of new urbanized land per year).
3. The special local situation regarding land ownership patterns, land speculation, access to legal land tenure for low income groups, etc.

After a determination has been made of the total number of cities requiring their own LDAs, a decision should be made as to whether or not regional LDAs should also be established to cover special requirements of smaller urban centers. A regional LDA would operate in the same general manner as an LDA in a single urban center. The major advantage of a regional LDA would be that it could intervene when and where necessary in order to stabilize local land markets and to insure that sufficient land is made available when required for future urban development. A regional LDA could play a very desirable role by intervening in coordination with other government development investments. For instance, a national economic plan might call for the installation of a major industrial plant in a small urban center as a part of an overall effort to achieve regional balance and dispersal of employment out of the primate city. A regional LDA could take prior action to acquire the land for the industry as well as the anticipated related development ahead of the land speculation that such an investment would generate.

In smaller countries it may not be necessary to have regional LDAs. One national LDA might serve wherever required throughout the country. The Urban Development Corporation in New York State is playing this kind of role.

Once the number of LDAs to be established at the various levels of government has been determined, it will be necessary to decide whether or not they should be linked in any overall framework. Each LDA could be entirely independent with its own territory, staff, legal powers, and financial mechanisms. At the other extreme, they could all be organized as a single national public corporation in which the individual units are more or less branch offices. A middle approach would be to have a national level unit, which might be a part of a central ministry, own a controlling stock interest in all the LDAs in the particular country and the respective local government own the minority interest. This form of organization has the advantage of bringing together on the board of directors both representatives of the national point of view and the local point of view. This should provide a desirable balance of perspective and allow for greater cooperation in the overall national development effort.

An additional benefit of the mixed national/local public corporation is that central government credit and financial guarantees should be more readily available. It would be highly desirable to coordinate the financing strategies of all the LDAs given the limited capital markets in most countries. The debt instruments issued by the LDA will be more favorably received if they carry a national government guarantee.

The LDA and Potential User Groups

The LDA deals solely in land. It does not concern itself with actual construction on the land beyond insuring that adequate infrastructure is provided. In the concept recommended here the LDA would provide developed land to both public and private users.

Public Land Users

The LDA would work in close coordination with other agencies of government to identify their land requirements and assure the timely delivery of land in sizes and locations required. The LDA would take on this function for all public development agencies, such as housing authorities and new town corporations, which in turn would retail the land to private users. The LDA would also work with the line agencies of government at all levels to meet their land requirements for such things as government buildings, schools, colleges, civil servants housing, etc. Land required for public facilities, easements, and roads would also be deeded over to the appropriate government agency at the time of disposition of the remaining parcels to private developers.

The LDA should charge other public agencies a market rate for the developed land provided. Even though this represents an intergovernmental transfer it should be a regular cash transaction because of the nature of LDA financing. Anything less than full market rates would lead to decapitalization of the LDA. In the case of lands for public facilities to serve private residential development, the costs of the land would be passed on to the private parties and the land dedicated to public purpose without cost.

One advantage of the LDA performing all of these public use land development functions is the efficiency and expertise which the LDA should bring to the task, coupled with the advantage of working out of the land bank. The other agencies, relieved of the land acquisition and preparation function, should benefit by being able to concentrate on their special program. It is, of course, essential that the LDA be developed to the point that it can meet the land requirements of other public users on a timely basis before it can take responsibility for these functions. It will not be possible to do this immediately after formation of the LDA.

Private Sector Land Users

The LDA should provide land to private sector land users for both residential and non-residential purposes according to overall development plans. It is through these sales or leases that the LDA will achieve the objective of controlling land speculation. It will be a matter of policy decision to determine the methods whereby the LDA meets these needs. They can either make direct sales or leases with individuals or with residential construction companies, who in turn would build housing on speculation for sale. This technique has been successfully used by the Karachi Development Authority.

It will be necessary for the LDA to maintain a constant market analysis in order to guide its land development activities to respond to real market demand. The plot layouts, size, and standard of infrastructure all must be considered in the planning by the LDA. The ability of the LDA to respond to the needs of various income groups with the variety of plot types and prices required will in large measure determine the success of its undertaking.

The LDA should also provide plots for non-residential uses, such as industry and commerce. These plots should be integrated into the overall physical planning of the LDA to ensure balanced development. For the most part non-residential plots should be auctioned, but in some cases negotiated sales or leases will be appropriate where it is important that a particular kind of development take place in support of overall planned objectives.

The sales or leases to private sector users should be oriented to generating surpluses for the LDA. The success of the LDA will depend on its ability to successfully compete in the private sector market and achieve financially profitable operations. Failure at this point will doom the LDA.

Popular Sector Users

The popular sector users will for the most part be low income families and marginal industrial and commercial operators. It is these groups which have the least access to land at the present time and yet make up a very substantial majority of the population in most developing country cities. How the LDA moves to meet their needs is extremely important. The concept of sites and services schemes are gaining in popularity all over the world. The LDA should ensure that a major part of its operations are geared to this kind of project to meet the needs of the popular sector.

Financing the Operations of the LDA

The basic financing assumption underlying the LDA concept is that land values will continue to increase in and around rapidly growing urban centers. It should be possible therefore for the LDA to capture, for the public interest, a substantial part of these increased values. In order to do this it will be necessary for the LDA to control a significant amount of land at all times. This in turn will require that the LDA have access to large amounts of capital. Public capital is in most cases in short supply. Therefore, the LDA must be given power to raise its own capital in the private market.

Land Bonds

The most promising idea for meeting the need for substantial capital is through the issuance of land bonds by the LDA in payment for the land taken from private owners. The land bond device has been used in Taiwan and has been proposed but not adopted in several other countries. Since the experience with land bonds is limited, it will need further study and analysis in each country considering its adoption. The concept itself is simple. Land bonds would be issued for the market value of the land taken by the LDA. The bonds would be paid off from the revenues generated by resale or lease of the land back to private users over time. If land prices continue to rise while the land is in public ownership at a rate in excess of the interest paid on the bonds then the LDA should have no difficulty in meeting its obligations and generating a surplus. It is desirable to have a capital market for the land bonds where the holder can sell his bonds and receive immediate payment if he so desires. This is necessary so that the holder of the bonds has flexibility in managing his assets. Otherwise individual hardships could result particularly in those cases in which the holder of the bond had previously depended upon income from his land for his living. The actual terms and conditions of the bonds should be the subject of close study in each local situation. The bonds must be made an attractive investment instrument in order that the capital market for the bonds is active and firm. Consideration should be given to making the interest tax free. This would have the effect of reducing the interest amount to be paid on the bonds, thereby lowering the cost to the LDA while making the bonds more attractive to high income taxpayers. The total tax implications must be thoroughly studied, particularly how the transfer of land for bonds would be treated for tax purposes.

The amount of bonding power given the LDA will also have to be decided in relationship to the overall effect on the national economy. There may be very real limits on the total amount of land bonds that should be outstanding at any one time in the

economy without having negative side effects on other investments also in the national interest.

It is clear, however, that without the kind of land bonds suggested here or a similar instrument, the activities of an LDA would be substantially curtailed. The central concept is the establishment of an adequate land bank to influence the land market. If the LDA can not afford to establish a land bank and is forced to work from project to project it is doubtful that it will dampen land speculation and, in fact, might actually contribute to it by joining in the competition for small tracts of land.

Working Capital

Even if the LDA has sufficient bonding power to establish the land bank, it will still be necessary to have substantial amounts of working capital in order to undertake the infrastructure improvements necessary to convert raw land into urbanized plots for resale or lease. This is very important. The problem of undercapitalization is illustrated by the inability of the Karachi Development Authority to complete infrastructure improvements in its projects resulting in delays in project completion and the underutilization of investment.

Two key elements are involved. First, the LDA needs sufficient working capital to develop its land as required. Second, it needs to sell or lease its projects as soon as complete and receive full value at the time of delivery. The LDA's working capital will initially come from government paid in capital for the stock of the public corporation. It is likely that this will be fairly limited and not sufficient for the intended scale of operations. Therefore, the LDA should have borrowing power with which to raise working capital. The loans can be for relatively short durations, probably 18 to 24 months so long as the LDA does not have to provide credit facilities for the sales or leases of its projects (see discussion below). The national government will be one source to be considered for short-term loans of this sort, but other avenues should be explored as well. If the loans carried a government guarantee and a market interest rate they would be attractive to private investors such as banks, insurance companies, and retirement funds. The total amount of money which can be allocated to land development will have to be determined in light of the alternative needs for investment in other sectors of the economy. The terms and conditions of the borrowings will, therefore, be a matter of national economic significance.

The LDAs should also be allowed to receive gifts of land from either private parties or the government which would have the effect of increasing working capital.

The LDAs should also be allowed to receive grants from government or possibly international aid agencies for special purposes. It might, for instance, be considered in the public interest to subsidize the sale or lease of plots to low income families. The long term objective of the LDA might be to utilize surpluses generated from sales or leases to other private users. But in order to make an early commitment to the needs of the low income groups special subsidies could be used. Such subsidies should always come from grants outside the LDA or from surpluses and never be allocated out of normal working capital. This is essential in order to maintain the operations of the LDA on a businesslike basis and to prevent the decapitalization of the agency.

LDA Revenues

The central concept of the LDA is to be self-financing and this requires generating revenues from its projects at an early date. The ability of the LDA to do this will depend on the overall structure of development finance operating in the country. Ideally, there should be development finance agencies such as national housing banks, savings and loan associations, commercial banks, which will be prepared to lend money to the private sector to purchase land from the LDA and to undertake the subsequent development. In this situation the LDA can obtain its full price for the land as soon as it is ready for the market. This in turn allows the LDA to repay its borrowings for working capital and to generate its desired surpluses. In short, if the LDA does not have to provide credit mechanisms to stimulate the sale or lease of its projects, then the LDA can work much more efficiently. This should clearly be the goal.

In the interim it may be necessary for the LDA to be a financing agency as well. In this case it will be essential that the LDA have full powers to reclaim any land in default without elaborate delay and court procedures. The terms of finance should be set through market conditions and reflect commercial interest rates, etc. The LDA should be careful that its financing mechanism not be turned into a form of hidden subsidy to user groups.

If the LDA is undertaking direct sales of sites and service plots to low income groups, a special collection mechanism may be required. Experience has shown that low income people do have the ability to pay and will pay if they believe the value received is worth the price. Nonetheless, all too frequently agencies expect low income families to come to them to make payments. In one case outside of Kingston, Jamaica residents of low cost housing were expected to walk two miles to a bus stop and then pay for a bus ride four miles to Spanish Town to come to the agency office to pay their monthly rent. It is no wonder that collections were low and infrequent. Either the LDA will need to have on-site

collection offices or will need to make convenient arrangements for payments to be made through another body such as a commercial bank with a nearby location.

The decision to sell land in fee simple title or to lease land for various periods should be determined by local prevailing conditions. In general, the public interest will be better served through leasehold sales coordinated with the length of life expected for the use to which the land is to be put. In either case the price set on the land should be the prevailing market price. Where it is desired to ensure that special land needs of particular user groups are recognized, a negotiated sale is appropriate, but the LDA should still seek to achieve the market price for the land.

The sales or leases to the private sector should carry as few restrictions as possible to give flexibility to the user. However, the LDA must ensure that the land is taken for development by a user with the intention and capacity to build to the plan. It would be desirable to make proof of financial capacity to build a condition of sale and to have clear contract clauses which will allow the land to be recovered if the development does not take place. The device of charging an "underutilization fee" such as found in Pakistan will not be effective unless the fee is greater than the increase in the land value through inflation. The leases to the popular sector users should have little or no restrictions. The only requirement should be that a shelter be built on the plot in a short time after taking the lease.

The LDA should seek to maximize its revenues from other sources as well. The vacant land taken and held in the land bank should be fully utilized during the period before it is required for development. Arrangements should be made to lease land back to the original owners for continued use or short-term leases made with other private interests to utilize the land. The LDA should be empowered to assess betterment fees on lands not included in the land bank which benefit from the activities of the LDA, and these fees should capture a substantial part of the values created.

Suggested Organization of an LDA

The actual configuration of an LDA will, of course, depend on the characteristics of such agencies within a given country. It is useful, however, to review in detail the proposed organization for the Land Development Agency of South Vietnam. This agency is not yet in existence although the recommendations were generally received favorably by the government. The recommendations

were prepared by the consulting firm of Wurster, Bernardi and Emmons, Inc. under a grant from the United States Agency for International Development.¹¹ Their report recommended the separation, at an appropriate time, of the land development functions from the existing Housing and Land Development Agency. They then went on to identify the configuration that such an agency would take. It is presented here rather fully because a pure land development agency of this type does not now exist to our knowledge, and the creation of such agencies is the main recommendation of this IME.

The proposed organization is presented in Chart 3. The organization proposes four staff groupings working under a Director and presumably, although not stated, a Board of Directors made up of senior government officials. The organization staff, divided into administration and personnel, carries on the internal administrative functions essential to any organization.

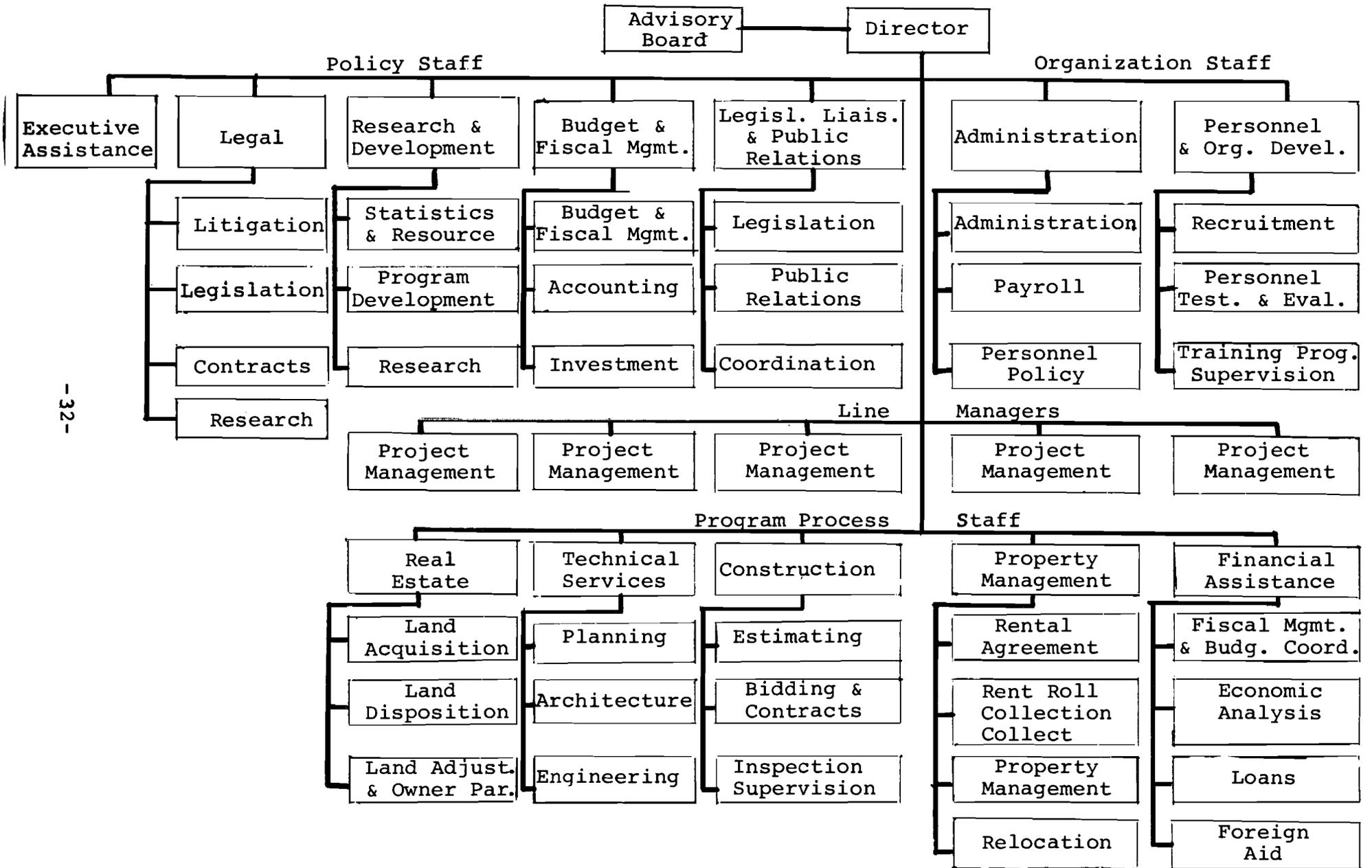
The policy staff consists of five units. The Executive Management Assistance group is interesting in that it provides the director with capabilities for responding to special projects and delegating his responsibilities when it would be inappropriate to burden a specialist unit with the task. The legal unit and the budget and fiscal management units fulfill the functions normally expected in such agencies. The Research and Development unit, often lacking in traditional agencies, is an excellent idea. This unit would provide a forward planning capability. It would accumulate and analyze pertinent statistical data, carry out special studies, maintain a library, investigate relevant techniques used in other countries, and recommend new programs and strategies. The proposed organization also includes a unit for legislative affairs and public relations. This unit would seek to coordinate the activities of the LDA with other national and local agencies affected by the programs.

The Program Process Staff consists of five units, each of which specializes in one aspect of bringing a project to completion. The Real Estate unit would handle land acquisition and disposition. Marketing is one of their functions. It would seem advisable to include marketing of the developed land as one of the basic functions of the LDA. This is particularly true if the LDA is operating on a schedule of providing a smooth flow of developed land to the market rather than on a project by project basis. The marketing function would be essential if the LDA is carrying out direct sales and leases to individuals, particularly low income individuals. It is, therefore, recommended that marketing be included in their proposed duties.

¹¹The Thu Thiem Peninsula Development Plan, study prepared by Wurster, Bernardi and Emmons, Inc., July 31, 1972, (under Contract AID/vn-101, Agency for International Development, USA).

Chart 3

Land Development Agency Organization



-32-

Source: Wurster, Bernardi and Emmons, Inc. Report

The Technical Services unit would include the planning, architecture, and engineering functions. It is very important that the LDA have its own capabilities to do complete project design. This is quite a separate function from metropolitan planning which should be done by another agency in close coordination with the LDA. The Construction Unit would not attempt to have its own construction capability but would instead contract the work out. This would be the best course of action if the private sector has sufficient capability to make bidding for LDA work competitive. In some situations such as Nairobi, Kenya, attempts have been made to build up an in-house labor force. In general, these efforts have not been successful as the total costs have exceeded the price private contractors have been willing to bid and the labor force jobs are often used as patronage by local politicians.

The Property Management unit will have an extremely important function if it is decided that a sites and services program should be run directly out of the LDA. Except for sites and services, the LDA should make every effort to sell or lease its developed land outright and for a lump sum to other public or private agencies so that it will have a minimum continuing property management function. The Financial Assistance unit would have overall responsibility for the fiscal management of each project. It could also provide a credit mechanism for low income purchasers of plots in sites and services projects if such facilities are not available elsewhere.

The fourth group consists of the Line Managers. This is a very necessary innovation in the usual organizational format. It recognizes the need to make specific individuals responsible for specific projects. All too often agencies which are organized by specialization simply pass the various project files from unit to unit and there is no effective responsibility to move a given project to completion. This leads to inefficiency and delays. Under this proposal specific project managers will be assigned to each project and will take the leadership in seeing that the various specialists in the Program Process Staff function effectively.

Overall the proposed organization of this LDA is a workable approach to the land development issue. It has several innovative features which should be a significant improvement over existing configurations. The key to this organization is the successful creation of the project manager level technician. If these individuals are of high quality and are given sufficient power to go with their responsibility, they should be able to make up for limitations in the other specialized units and keep the program moving.

The consultants also estimate the build up of the proposed staff over its first four years to be from 34 persons in year one to 120 persons in year four. Unfortunately, they do not estimate

the amount of work such an agency could accomplish per year being content to say only that it could "carry out a modest but aggressive land development program". Obviously, considerable actual experience will be necessary in order to determine the optimum relationship between staff and output. The authors guess that the staff of 120 persons recommended could undertake development of between 1,000 and 2,000 acres of land per year depending on the mix of uses for which it would be designed.

The Legislative Basis for the LDA

The legislative basis for establishing the LDA is the critical starting point in implementing the kinds of recommendations made in this IME. There is in most countries a body of legislation which will cover various parts of the enabling powers called for here. A decision will have to be made whether it is better to ammend existing legislation or to prepare entirely fresh legislation. The answer will depend on local political and social conditions and the usefulness of the existing laws. In order to assist the task force or those responsible for this question, Chapter V presents the legislative issues in a framework for review and comparison with the individual country's laws.

CHAPTER V

ENABLING LEGISLATION

The purpose of this chapter is to note the essential features of legislation governing the establishment and operations of an LDA. Most of the elements would normally be embodied in statutory enactments of national or state lawmaking organizations; others would be embodied in subsidiary regulations, rules, orders, by-laws or decrees adopted by appropriate executive or administrative entities, depending on local legislative style. The contents of this chapter may be regarded as a checklist for consideration by draftsmen of legislation or a charter for an LDA. There is no single model code suitable for universal adoption. There are alternatives to be considered by the lawmakers based on local administrative, economic and social capacities and conditions.

General Configuration

The mandates, instructions or other statements of a lawmaking or rulemaking body are rarely self-executing. Legislative terms require interpretation, either by administrators, the courts, or both. Accordingly, in most legal systems it is desirable and proper that the legislative document itself expressly incorporate a declaration of legislative findings, policies, and purposes as a guide for later interpretation or application.

Illustrative Findings

Each set of findings will necessarily reflect conditions peculiar to the urban areas to be serviced by the LDA, so a general statement here would not be appropriate. Typical findings common to many urban settlements across the world might include the following:

1. Many urban areas are experiencing uncontrolled growth and becoming slum or blighted areas because of substandard, deteriorated or deteriorating conditions, inadequate maintenance, illegal occupancy of land, lack of proper sanitation facilities, drainage or adequate fire or safety protection, lack of or improperly located open spaces, inadequately or improperly planned

layouts for various types of buildings, poorly designed street patterns, lack of access to streets, a lack of loading and parking facilities, unsuitable topography, and other physical conditions impeding proper environmental improvement and economic development of such areas.

2. Low income persons are denied access to urban land within convenient distance from places of work, because of high land costs or other reasons.

3. Strategically located land is needed for the development of industrial and commercial facilities to help relieve problems of unemployment in urban areas.

4. Private developers are unable to provide an adequate supply of urban land at prices which low income persons can afford, partially by reason of the excessively high costs of, or lack of legal means for, assembling, acquiring and clearing suitable land in existing or potential urban areas.

5. Private developers lack the capacity to plan and coordinate their development efforts so as to yield an efficient and economic use of scarce urban land resources consistent with community social needs.

6. These conditions impair the sound growth of urban areas and in consequence arrest the overall development of the nation and the state or province.¹²

Illustrative Policies

Based on the findings, it will be the policy of government to:

1. Provide public agencies with adequate access to land for the provision and proper planning of public facilities, utilities and amenities.

2. Provide access to families or individuals to homesites, or to public and private developers to suitable land for construction of dwellings for others.

¹² New York State Urban Development Corporation Act.

3. Provide effective public institutions for assembling, acquiring, developing infrastructure for, and distributing urban land in sufficient quantities for such purposes.

4. Provide adequate means for participation by urban dwellers, property owners and other members of affected communities in the preparation of plans by or for, and the conduct of land development activities by, the institutions so established.

Illustrative Purposes

The immediate purposes of legislative enactments taken to implement such policies include:

1. The establishing of an LDA (or LDAs).
2. The designing of its structure and organization, and establishing of relationships of the LDA with other existing or new supporting or supervisory agencies of government.
3. The vesting in the LDA of administrative, enforcement, coordinating, planning, regulatory and fiscal powers for achieving its objectives.

Legal Status of the Public Corporation

In most jurisdictions the public corporation is the preferred form of LDA. In different countries and contexts they may be referred to as "authorities" or "semi-autonomous" bodies, or given similar labels.

For the purpose of discussing enabling legislation it has been assumed that the LDA would be a public corporation. This indicates a preference of this IME for the corporate mode, but not necessarily in every case. There should be no difficulty in making appropriate adjustments where the functions of the LDA are assigned to a regular government department, bureau or other unit.

Place of the Corporation in the Structure of Government

The LDA, even if a public corporation, will be attached to an existing government, secretary or department which will assume a supervisory role. Frequently the LDA is tied to the Ministry of Housing, but a broader mandate can be obtained by linking with a

Ministry of Local Government. The latter is generally to be preferred. In some governmental systems the minister or higher authority is empowered generally to issue directions which the corporate agency is required to follow. A more specific delineation of ministerial prerogatives may be preferred, depending on local legislative drafting traditions and the degree of freedom the lawmakers may wish to accord the agency.

If no particular government ministry or department is made responsible for providing policy direction to the LDA, a council or board of representatives of concerned departments might be created to perform an advisory function and perhaps, in addition, review the LDA's major determinations. The council constituted by the Delhi Development Authority in India to advise on matters referred to it by the Authority is one variation.¹³

The choice between a single LDA for the entire state or province or nation or multiple agencies for subareas or regions will depend on a number of factors, such as geographical scope, the number of potential urban growth areas to be serviced, the availability of professional personnel, budgetary constraints, and the importance of local government jurisdictions in controlling the allocation of political power and development resources. Assuming the choice is not clearly dictated by the given circumstances, in some legal systems the decision may be deferred through delegation to the executive branch of government. The enabling legislation may authorize the government, possibly acting through a designated minister, to create individual LDAs as they are required and define their separate jurisdictions.

Composition and Major Organizational Features

The composition of the LDA must necessarily be tailored to fit the given governmental system and development problems. No one formula is recommended. The most familiar pattern provides a governing body consisting of a mix of public representatives and government officers, including some serving the LDA in an ex officio capacity and others working full time in its management. Political considerations may dictate a fairly large representative governing body, but one that may be too unwieldy to make decisions expeditiously. The structure of some public corporations follows a typical private corporate model, with both a policy-making board of directors and a smaller executive unit to which important management decisions are delegated.

¹³ The Delhi Development Act, 1957 (Act No. 61 of 1957, Government of India).

Normally the LDA would be permitted to define and establish its own administrative divisions, but the enabling legislation may stipulate the title and responsibilities of division heads. The Urban Development Authority of Malaysia is organized into six divisions: Business Promotion and Development, Lands and Properties, Research, Planning and Implementation, Finance and Accounts, and Secretariat and Legal Matters.¹⁴ We have observed that the internal organization of a suggested Land Development Agency for South Vietnam includes branches for Executive Management Assistance, Legal Service, Research and Development, Budget and Fiscal Management, Legislative Liaison and Public Relations, Administration, Personnel and Organization Development, Real Estate, Technical Services, Construction, Property Management, Financial Assistance, and Project Management.

Planning Powers

Area-Wide Planning

The LDA's decisions regarding the nature and locations of its land development projects cannot be made in isolation. They are ordinarily part of a hierarchy of decisions which may be reflected in national economic development plans, provincial components of such national plans, less often in regional development plans, and most commonly in master plans for the areas of potential urban growth in which the LDAs are most apt to function. The simplistic notion that the timing and location of all public land development can be determined in advance by a master plan sometimes finds expression in the planning laws under which an LDA operates. The laws may decree that the master plan show where new development is to take place, and then direct the LDA to act in conformity with the plan.¹⁵ Other statutes require LDA projects to be compatible with an urban land use plan if one exists.¹⁶ Despite statutory requirements or exhortations, too often master plans simply do not exist or they leave unresolved some important locational issues confronting the LDA, or they have been rendered obsolete by unanticipated events, such as a heavy influx of immigrants.

¹⁴ Perbadanan Pembangunan Bandar Act, 1971; Laws of Malaysia, Act 46, 1971.

¹⁵ The Maharashtra Regional and Town Planning Act, 1966 (Act XXVII of 1966), State of Maharashtra, India, Sec. 59, p. 113.

¹⁶ Hawaii Revised Statutes, Ch. 206, Oahu Land Development, Sec. 205-6, p. 9.

A more realistic approach would bring the LDA directly into the process by which plans are made for the area or areas comprising the LDA's jurisdiction. This may be done in a number of ways. Some suggested methods, in our order of preference, are:

1. The LDA may be given the responsibility and authority for preparing strategies for public land development activities in the larger area embracing its theater of operations such as a metropolitan setting. The public land development strategy plan would be a component of the area-wide plan. This should be coupled with mandated LDA participation in budgetary or sanctioning procedures for reviewing development projects of all major public agencies in the area.

2. The LDA may have one or more representatives on the governing body of the planning agency.

3. The planning agency, plan sanctioning authority or both may be required to consult with the LDA in the course of plan preparation or in reviewing development proposals submitted in implementation or modification of a plan.

In any developing country an LDA will be competing for scarce social capital as well as urban land resources. To be effective the LDA's chief executive should be placed in a position to participate meaningfully in the councils of high level government in which the competition takes place, usually in the process of state or provincial economic development planning. Ideally this should be confirmed in the statute creating and granting powers to the LDA.

Project Site Selection

If the LDA does not perform the more comprehensive function of devising strategies for public land development in a particular region, it should at least be directed to make preliminary studies of potential project areas, and prepare findings justifying the designation of particular sites for acquisition and development. The enabling law may set out basic criteria to be satisfied in the selection process and demonstrated in the LDA's findings.¹⁷

¹⁷ Hawaii Revised Statutes, Ch. 206, Oahu Land Development, Sec. 206, p. 5.

Advance public notification of the declaration of a project area is standard practice. 18 The declaration may serve a variety of purposes, including the confirming of the LDA's jurisdiction over the area; giving notice to property owners that their land may be subject to acquisition by the LDA; pegging the value of project land for compensation purposes, if permitted under eminent domain law; and, where deemed desirable, giving the public an opportunity to speak for or against the project. For the latter purpose the enabling statute should include in the designation procedures an opportunity to interested citizens to be heard or to make representations to the LDA in writing.¹⁹

It is suggested that the declaration requirement not be so worded as to preclude the LDA from buying up land on the open market for potential project use, either to take advantage of opportunities to pick up available parcels at fair prices, or to avoid the speculative effects of an advance public announcement.

Consultation with local authorities prior to project site designation may be required ²⁰ unless this is normally done as part of the preliminary planning process. Alternatively, depending on the strength of local government in the area, the statute may require formal advance submission of a project proposal for consideration by local authorities. In the case of New York State's Urban Development Corporation, if the submission draws a negative response from a municipality, a two-thirds vote of the Corporation's directors is necessary before the project can go forward. ²¹

Project Planning; Nature and Stages

Depending on the operation of eminent domain laws and administrative or local procedural traditions, there may be two or more stages of project planning. Initially the LDA may be able to identify the approximate boundaries of a site for a given project, and sketch out its general contours. Project site planning to that extent will ordinarily take place before the issuance of the

¹⁸Ibid., Sec 205-6; and Laws of Malaysia, Act. 46, 1971, Sec. 17.

¹⁹Hawaii Revised Statutes, Ch. 206, Sec. 205-6.

²⁰Puerto Rico Land Law of 1941; Laws of Malaysia, Act. 46, 1971; The Maharashtra Regional and Town Planning Act, 1966.

²¹New York State Urban Development Corporation Act, Sec. 16.

declaration officially setting the site aside for the intended use.

The second stage will entail greater specification of land uses, with particular emphasis on marking out the precise boundaries of private parcels to be acquired through eminent domain. Whether the LDA or another public agency or private developers complete the final stages of site planning will turn on the nature of the project. The final plan may be embodied in the first or second stage if it calls for the laying out of the entire area as a sites and services project. If the land is to be distributed in large chunks for private development, the precise planning for each development might be done by the developer, by the LDA, or by both. It would be a mistake to write into the enabling law a fixed schedule of planning steps. Their number, timing and nature will vary from project to project.

Planning and Control of Private Land Use

The LDA should be vested with adequate planning and land use control powers to promote and protect its own development projects. A grant of control power might take the form of a supersession of zoning or town planning authority residing elsewhere, with respect to each project area, upon the date of its declaration. In Malaysia the urban development authority is made the "planning authority" in any declared urban development area and is to operate as such under the laws applying generally to planning authorities.²² If the transfer of power is not feasible, accomodation with existing authority might be achieved in ways similar to those suggested above for LDA collaboration in area planning and site selection.

In addition to regulating building and other activities on project lands ultimately put into private hands, primarily through conditions embodied in lease or deed documents, the LDA should be endowed with the following powers:

Interim control powers. These may be important to prevent private development or land speculation in a declared site area, pending the completion of the acquisition, assembly and planning processes; or, in the case of private lands not transferred to the LDA, pending the completion of detailed land use plans and the imposition of permanent controls. A popular legislative device is a blanket freeze of development from the moment the site is designated for the project, unless the LDA or some other administrative body or officer grants development permission.²³ This method

²²Laws of Malaysia, Act. 46, 1971, Sec. 18.

²³Lagos Town Planning Ordinance, 1928 (Ordinance No. 45 of 1928) (Nigeria) Sec. 18.

has not always proved effective. Lacking a reasonable duration, the interim freeze may be vulnerable on constitutional grounds as an unfair deprivation of the owner's right to a reasonable return on his property. In the absence of workable criteria for granting development permission, the decisions granting exceptions may appear arbitrary, hence tend to discredit the administration of the system.

Land reserve power. The LDA should be empowered to reserve both public and private lands for projected streets, recreation uses and other community purposes. Mechanisms for protecting the rights of private property owners, under which compensation is payable or permission for limited development may be granted, are to be found in the laws of many countries relating to the fixing of road alignments or projection of new streets. These can be readily adapted for the purposes of the LDA.

Area control. The LDA should be empowered to prevent the inappropriate use or misuse of lands outside the project area which may be detrimental to the living environment within the project boundaries.

Acquisition and Assembly of Land

Acquisition

A broad delegation of land acquisition powers is essential. The LDA will be authorized to acquire land from private owners by gift, voluntary purchase, exchange or eminent domain. Usually specific authorization is provided for the assumption of land held by other public agencies. The LDA should be empowered to acquire less than absolute title, to enable it to obtain easements, development rights or leasehold interests.

Special provisions may be necessary to establish procedures by which the LDA can apply for a release of state land for its purposes, or obtain a transfer from other public agencies of land already earmarked for their purposes. In Pakistan and Indian laws it is either assumed or stated explicitly that the LDA is to pay fair value for all land so acquired, save those parts turned back to the donor, such as a municipality, for use by the public (e.g., for streets or parks). Interagency disputes over compensation are usually resolved in much the same manner compensation is fixed for the taking of private land. A fixed rule of payment for public land may be necessary where the LDA itself can mandate the transfer. But where the process involves negotiation between the donor agency and the LDA, or where the decision is made by a higher authority, a more flexible pricing policy should be permitted. For instance, if the land is vested in a municipal government all

of whose citizens are the primary beneficiaries of the proposed project, it may be appropriate for the municipality to subsidize the land costs through a transfer of the site without compensation. Ideally in any case the benefited and burdened groups need to be identified clearly before the fixing of the price (if any) for the transfer to the LDA.

The procedures and formulas for compensating private owners for expropriated lands will usually be found in general expropriation laws. The law creating the LDA should, however, incorporate special compensation rules to avoid the payment of inflationary prices; or provide devices to facilitate quick possession of property by eliminating certain procedural steps in the expropriation process.

Most LDA projects will bring new residents to an area, thereby provide markets for new or expanded commercial enterprises nearby, and result in the enhancement of the value of land on the periphery of the project. Opportunities for capturing part of the profits for the LDA will be noted later. One device can be incorporated in the compensation formula, and should be provided specially in the enabling law if not dealt with in the general expropriation statutes -- the right of the government to offset against the compensation payable for one parcel of land the amount by which another parcel of the same owner, not expropriated, will increase in value as a result of the project.

The law should explicitly authorize the LDA to acquire land for future urban expansion, long before identifiable portions are subject to project development. This power should include expropriation, if the applicable constitutional requirement of "public purpose" can be given a broad construction.

Land Adjustment

Where land development is hampered by fragmented, irregular or poorly situated holdings, an adjustment of plot dimensions may provide an adequate solution. The process is variously called re-parcelling; land replotting²⁴; reconstitution, or adjustment of plots²⁵; land readjustment²⁶; or redistribution of holdings.

²⁴Measures for Land Replotting, Republic of China, Executive Yuan, promulgated October 31, 1946.

²⁵The Maharashtra Regional and Town Planning Act, 1966, Sec. 65; City Planning Act, Republic of Korea, Law Number 983, January 29, 1962, Art. 26; Israel Planning and Building Law, 5725-1965, Sec. 70.

²⁶Land Readjustment Project Law, Republic of Korea, Law No. 1822, August 3, 1966.

The LDA should be empowered to draw up its own scheme by which existing plots are realigned; private land is required to be dedicated for streets and other purposes; owners who lose land in the process are compensated; assessments are made against those who gain through an increase in area or by potential enhancement of value resulting from public improvements; and government is required to make up any net loss.²⁷ Sometimes these or similar measures can be effected through voluntary agreements of property owners²⁸, or through cooperative associations, compulsorily organized upon the consent of owners of a specified proportion of the area involved. Or the law may provide a combination of devices, allowing government intervention where voluntary efforts fail.²⁹

We question the assignment to the LDA of the function of administering a land adjustment law throughout the state or nation. The LDA should be given the option of using this tool solely in connection with its own land development projects where, by doing so, it can obviate the hardships and expense of expropriation.

Relocation

The relocation of persons displaced by LDA projects should be the responsibility of the LDA, if the function is not performed generally by another agency. In any case the LDA would share in that responsibility. In addition, it should be empowered to take positive steps to provide accommodations for relocated persons, whether through the provision of its own temporary quarters, the leasing of private building space, or otherwise.

Modern legislation providing for the clearance of developed land generally compels the clearing agency to demonstrate that displaced residents will be given adequate substitute accommodations (e.g., in "decent, safe and sanitary dwellings, which are or will be provided in the project area or in any other areas not generally less desirable in regard to public utilities and public and commercial facilities, at rents or prices within the financial means of such families or individuals, and reasonably accessible to their places of employment").³⁰

²⁷The Maharashtra Regional and Town Planning Act, 1966.

²⁸Korea City Planning Act, Art. 26.

²⁹Korea Land Readjustment Project Law, Art. 7.

³⁰New York State Urban Development Corporation Act, Sec. 10 (e); and see the Urban Development Corporation proposed for Tanzania in a report by PADCO, Inc., December 22, 1969 to the Ford Foundation, p. 70; The New Towns Act 1965, Halsbury's Statutes of England, 3rd Edition, Vol. 26, pp. 375-443, 1965, Ch. 59, Sec. 22; and Israel Rehabilitation Zones (Reconstruction and Evacuation) Law, 5725-1965, Sec. 39.

Site Improvements

The LDA should be equipped with a full range of powers for improving raw land for every type of project within its competence. The would include, among other things:

1. The making of surveys and appraisals.
2. Clearance of built up land, with the incidental power to summarily remove squatters and other trespassers (to be employed with discretion, only where alternative sites are provided for squatters, as suggested below).
3. Grading and otherwise preparing land for development.
4. Subdivision of land into plots.
5. Laying out, construction and paving of roads and streets, public squares and footpaths.
6. Installation of distribution lines and other facilities for water supply, sewerage, drainage systems, street lighting and other utilities or services, including core utility units and water taps for sites and services projects.
7. The construction of schools, shopping centers, markets, clinics, civic centers and other community facilities.
8. The construction of industrial facilities where essential to attract manufacturing enterprises to a new community for which land is being developed by the LDA, or where the powers of the LDA extend to the development of industrial estates (though ordinarily, in any case, the tendency would be to leave the building of factories to the entrepreneurs themselves).
9. The provision of parks, recreational facilities, gardens and open spaces.
10. The provision of parking facilities, truck, train and bus terminals, and traffic control facilities.
11. The provision of dumping or incineration facilities for solid waste disposal.

Housing construction is not included in this list, because our recommended conception of a LDA rules out extensive involvement with functions other than the supply of developable land for

urban purposes. The fiscal and operational burdens of building and providing shelter should be the preoccupation of other agencies. However, the grant of power to the LDA to finance, build and operate housing blocks or units may be desirable if no other agencies are available to perform this function.

In the performance of many community services there is a division of roles, either in terms of function or time. For example, one agency with area-wide scope may produce and supply water on a bulk or wholesaling basis. Another agency, such as a local government, may purchase the bulk supply and distribute it to a particular group of consumers. Or an agency entrusted with both functions with respect to a particular land development area, as in the case of the Karachi Development Authority, may transfer the retailing function to a municipality at a later date, after the area has been occupied by consumers. Similarly, land development agencies are commonly given control over municipal land for street development, and upon completion of the streets, both title to the land and street maintenance functions are re-vested in the municipality. Intergovernmental problems result which cannot be resolved by statutory prescription. In discussing the problems of LDA relationships with local governments generally, we suggest that the enabling law give full scope to the LDA to work these relationships out by negotiation and agreement. At the same time, lest service gaps result from the absence of viable municipal government in a project area or from the failure of the consensual approach, the legislation should clearly repose the ultimate responsibility and power for particular functions in the agency best able to cope with them. For example, if an urban expansion project of the LDA falls outside the jurisdiction of an existing municipality, a mandatory transfer of water supply and other similar urban functions to a rural unit of government or to a newly formed municipality lacking administrative capacity would lead to difficulties. Under such circumstances the LDA should be accorded authority to assume requisite municipal powers, including the authority to levy water charges and do everything else necessary to manage the system until such time as an orderly transition can be made.

The Distribution of Land

The Nature of the Interests Alienated; Methods of Distribution

The legislation may expressly incorporate a policy regarding the nature of the interests to be converted to private ownership (e.g., the provisions governing the disposition of lands of Oahu by the Board of Land and Natural Resources of Hawaii declares the policy of the Board "to encourage insofar as possible the widespread fee simple ownership of residential lots of modest size

and price" ³¹). In many countries tradition and policy favor the granting of leases of limited duration, occasionally reflected in a statutory requirement that an outright sale or lease for over a given number of years is subject to the approval of the state or central government. ³² Where the permitted term is substantial, say 40 years or more, the statute may allow the leasing agency to adjust rents every 10 or 20 years or so to adjust for inflation.

There is a tendency for lease approvals to be granted routinely in some places. As a result the approval process ceases to serve a useful function and instead merely creates delays which impede the progress of LDA project development particularly where there is a large volume of transactions. Where this is likely to occur, the statute should authorize the sanctioning authority to dispense with the requirements and to delegate it to an LDA office at the site.

Whatever the policy dictated for a majority of its transactions, the LDA should be given wide discretion to select the particular form of occupancy best suited for each type of project, or for each class of conveyance within a project area. The options might include grants of conventional fee title, condominium interests, the exchange of land, hire-purchase agreements, leases with or without options to purchase, easements, licenses or other rights or interests in land recognized in the country's legal system. In general it is best to utilize straight lease agreements tied to the expected useful life of the construction to be placed on the site.

Similarly the LDA should be given a free hand in choosing the method for disposition of land, including sales or leases by negotiation, auction, lottery, or through giving priority to preferred classes of purchasers such as original owners of the project land or persons displaced by slum clearance projects.

Where the subdivision of the land and its ultimate development and disposition are to be the responsibility of a private contractor, sealed tenders may be required. The bid invitation would require the submission of proposed contract terms, including plans, specifications, time schedules suggested by the bidder, and other terms stipulated by the statute (e.g., a formula for prices on sales of lots, and other conditions of resale) ³³ If the formalities of the public auction method do not afford sufficient latitude for selecting a responsible developer with innovative ideas, or if the method is incompatible with the need to have a private developer take a major part in the initial planning, the

³¹Hawaii Revised Statutes, Ch. 206, Sec. 206-9.

³²The Maharashtra Regional and Town Planning Act, 1966, Sec. 118; The New Towns Act 1965 (England); The Housing and Development Ordinance, 1959 (Ordinance No. 11 of 1959) (Republic of Singapore) Sec. 24.

³³Hawaii Revised Statutes, Ch. 206, Sec. 206-9.

statute may authorize the agency to choose the developer through direct negotiation. If that option be open, it is usually hedged about with safeguards against official abuse, such as requirements that the terms of the proposed agreement be published in advance, followed by a public hearing³⁴ or that the developer agrees to match the rental or price any other party may offer under the same conditions beyond a minimum figure fixed by the agency³⁵ or that another applicant who wishes to compete with the tentatively selected contractor on the basis of fixed criteria and demonstrates that he meets the criteria may prevail if he submits a higher offer through a sealed bid.³⁶

Auction procedures and other safeguards may be dispensed with if the LDA wishes to deal with another public or semi-public development agency such as a municipal housing authority. The exceptions should be expressed in the statute.³⁷

Restrictions and Conditions

Qualifications of distributees. The grant of powers to the LDA should confirm its discretion to limit classes of ultimate users of project land, in appropriate cases, to self-occupation or to families in certain income brackets or both. The enabling law itself is not a suitable place for making such policy choices. However, some statutes do contain restrictions on the sales or leases of residential plots to persons owning dwellings elsewhere in order to promote the LDA's objective of providing urban space for those most in need and keep the land out of the hands of speculators.³⁸

Use restrictions. The LDA should be assigned broad power to insert in its lease or sale documents conditions or covenants regulating the laying out, improvement or use of land. This is generally a preferred method of ensuring development in conformity with the LDA's and community's long-range plans, and guards against deterioration into slum conditions. In most jurisdictions general land use controls will also cover the project area or may be enacted thereafter. To avoid subsequent legal entanglements the

³⁴ New York State Urban Development Corporation Act, Sec. 6(c).

³⁵ New York State Urban Renewal Agency Act, General Municipal Law, Art. 15-A; McKinney's Consolidated Laws, Book 23, Sec. 556.

³⁶ Hawaii Revised Statutes, Ch. 171, Sec. 160-71.

³⁷ New York State Urban Development Corporation Act, Sec. 6

³⁸ Hawaii Revised Statutes, Ch. 206, Sec. 206-9; Ch. 171, Sec. 148-171.

enabling statute should clearly define the relationship between the deed or lease restrictions and the general regulations. At the very least it should acknowledge government's right to impose more restrictive controls at any time through general subsidiary legislation observing proper procedural standards and respecting the vested interests of incumbent property holders.

Many LDAs stipulate that the allottee of a residential site construct a dwelling within a given period of time, say two years, to assure full utilization of urban land.³⁹ We noted earlier that with just that objective in mind the Karachi Development Authority, after giving affected property owners notice and an opportunity to be heard, is empowered to declare specified lands as "use areas"; if after two years the Authority is of the opinion that any land in the declared area is "unreasonably unutilized or inadequately utilized" the Authority levies an annual assessment of 3% of the value of the land until such time as an improvement is completed to its satisfaction.⁴⁰ However, if the increase in land value is substantially above the assessment rate as has been the case in Karachi, this type of provision will not have the desired effect.

Restrictions on transfers. Limitations on negotiability of lots intended for occupancy by the purchasers are common, again to discourage speculation and the diversion of real market value from the public treasury to private hands. Often a flat prohibition is declared subject to special permission given by the LDA or some other governmental authority. In some cases LDAs grant transfer permission indiscriminately, countenance successive turn-overs of allotted plots, each at a higher price, and purport to find justification in the charging of transfer fees. Although this gives the public a small share of the profits of speculators, the ultimate land costs may be driven to the point where lower income allottees are influenced to substitute cash for shelter, and the ultimate occupants are forced to pay inflated land costs. Another undesirable by-product of free transferability is the tendency of allottees to divide and resell their holdings leading to a distortion of intended density or space standards.

An alternative technique for avoiding the problem is a statutory prohibition against the resale or sublease of the originally allocated space within a specified period of time, say five years, unless the owner has given the LDA a first option to buy it back at a price not exceeding the original land cost plus the replacement value of the improvements, the price to be determined

³⁹ Hawaii Revised Statutes, Ch. 206, Sec. 206-10.

⁴⁰ Karachi Development Authority, 1957, Art. 111.

by appraisers (one of them independently chosen). Resales of lots and improvements so reacquired by the LDA may be made at a price not exceeding the cost to the LDA plus a reasonable amount for overhead and expenses.⁴¹

Where the LDA is serving as wholesaler, turning over the whole or large segments of the project to private developers or institutions which in turn subdivide or build for the ultimate occupants, the LDA will lay down appropriate conditions for re-transfers. These would include, among other things, the incorporation of use restrictions in leases and possible limitations on rentals and on the profit margin of the "retailer".⁴²

Remedies for breaches of terms or conditions. The inability of administrators to manage land development projects is often laid to deficiencies in the delegation to the LDA of power to cope with defaulters. Ordinary remedies available to private creditors, such as a lawsuit for breach of contract or recovery of possession, may be ineffective. The enabling law should give the LDA strong powers to correct defaults or remove the defaulters from the projects. Existing legislation reveals the following illustrative powers:

1. A grant of authority to the LDA, to other government officials, or to other affected residents in the project area to enjoin land use violations.⁴³

2. Forfeiture of title to or other interest in a lot and revesting in the LDA if specified types of violations are not remedied voluntarily after due notice, based upon findings by a court or other tribunal in a proceeding instituted by the LDA, and providing for resale and payment to the defaulter of the net proceed after making deductions for expenses and protecting certain security holders.⁴⁴

3. The forfeiture of leases, after notice of default and subject to the rights of certain security holders, giving the LDA the right to immediate possession without the necessity for further demand or legal process.⁴⁵

⁴¹ Hawaii Revised Statutes, Ch. 206, Sec. 206-8.

⁴² Ibid., Sec. 206-8.

⁴³ Ibid., Sec. 206-11.

⁴⁴ Ibid.

⁴⁵ Hawaii Revised Statutes, Ch. 171, Sec. 139-71, 171-80.

4. Summary eviction (avoiding the procedural delays of an ordinary lawsuit) of persons in default of payments, followed by cancellation of the leases and giving the LDA the right of immediate repossession.

5. Making any sums due from purchasers or lessees a first charge on the plot subject to payment of tax arrears or other revenues.⁴⁶

6. Permitting overdue amounts to be recovered as if they were arrears in taxes, thereby making available special collection machinery available to government and not to private landlords.⁴⁷

The best solution in a given situation is that which requires the minimum time and least administrative procedure.

Regularization and Unauthorized Holdings

Squatters pose critical problems of land tenure in the large urban areas of most developing countries. The traditional response of government has been resort to the law of trespass and the removal of the offenders to relatively remote resettlement areas. In many parts of the world contemporary policy calls for the legalization of the existing holdings of squatters on public lands suitable for permanent residential use and not reserved for important public purposes.

The jurisdiction of a typical LDA is bound to include such areas. Other agencies may be placed in charge of the process for political or administrative reasons. If so, the LDA should nevertheless be assigned an important role in the making of decisions regarding the sites to be regularized and in planning for the improvement of layouts and environmental conditions in the chosen locations. On the other hand, if areas selected by the LDA for its own development projects are incidentally occupied by squatters, primary responsibility for determining whether the illegal occupants should be given priority over others in the distribution of residential plots should be that of the LDA.

Project Improvements and Services

Wherever possible ongoing service functions should not be a major concern of the LDA. Its attention will be directed mainly to the development of land for new or expanded urban settlements. Other public agencies would be expected to assume responsibilities.

⁴⁶The Maharashtra Regional and Town Planning Act, 1966, Sec. 109.

⁴⁷Ibid.

for guiding social and economic development of, and providing services for, the communities eventually accommodated by the LDA's projects. Yet there may be occasion for the LDA to initiate services or perform them in transitional periods, where permanent local governments or other public agencies are not yet functioning or are not performing adequately. The enabling legislation should provide for this contingency. Its grant of powers to the LDA might thus include:

1. The sale of water to resident consumers, or provision of bulk water supply to other public distributors.
2. The provision of sewerage and solid waste disposal services under similar conditions.
3. The provision of fire fighting services and other municipal and utility services.
4. The maintenance of streets, parks, recreational areas and open spaces.
5. The maintenance and operation of facilities for clinics, schools, civic centers, and shipping centers (not including program operations).
6. The provision of building materials, self-help training centers and other support programs for the construction and maintenance of homes in sites and services projects.
7. Assistance in establishing housing cooperatives or associations to perform building functions in residential projects and in the creation of credit institutions for housing.

Project Management

The LDA should be armed with a variety of regulatory weapons in addition to land use controls. Some may be transitional in nature, pending the assumption of responsibility by local governments or other public agencies. They might include:

1. Regulation of the siting of potentially offensive or hazardous trades and industries and places of public assembly.
2. Building controls, housing codes, and the control of outdoor advertising.
3. The fixing of building and street lines.

4. Protection against encroachments on streets, highways and other public places.
5. Basic sanitary regulations.
6. Regulation of the use of streets, parks, community centers and other properties remaining under the control of the LDA or of lessees for whom the LDA has assumed maintenance responsibilities.
7. The protection of shade trees.
8. Fire prevention regulations.
9. Environmental quality controls, including the protection of watercourses, air pollution controls, and regulation of solid waste disposal.
10. The prevention of public nuisances in general.

Management and maintenance functions, as distinct from purely regulatory ones, need not be elaborated in the enabling legislation. The authorization would ordinarily be inferred from grants of powers to provide the services and making the improvements noted above.

Finance

Government Grants and Loans

The LDA should be self-sustaining, but will require initial government support in the form of first-instance loans or grants, or the creation of a revolving fund. Provisions for a revolving fund might specify the sources of the fund, the means for replenishing it, and permissible distributions. One country has placed a charge on the LDA's immoveable property to secure government advances.⁴⁸

Borrowing in the Private Market

In a number of developing countries, political subdivisions and special authorities are denied the right to directly tap private lenders. The issuance of bonds or other securities lies exclusively in the state or central government and borrowing by other agencies must be from or through that government. The

⁴⁸ Singapore Housing and Development Ordinance, 1959, Sec. 28.

strength and in large measure the justification for public authorities in some of the western nations are their capacity to sell long-term bonds or debentures on the open market, usually tax exempt interest, and often backed by government guarantees. If there is a market for such securities in a developing country, they would probably provide an optimum source of LDA capital, because the period of recoupment of project costs is usually a long one and the uncertainties of reliance on annual government hand-outs may put the projects in jeopardy in the interim.

If the issuance of LDA bonds is permitted, the details of the statutory delegation might touch on the following subjects, among others:

1. The nature and terms of the bonds, relating to interest rates, maturity, installment payments, renewals, denominations, forms of execution, place of payment, redemption options and limits on total authorization.
2. The manner of sale (e.g., by public auction).
3. Refunding.
4. Disposition of the proceeds, including the making of investments from idle cash.
5. Whether payment is backed solely by project revenues or, in addition, by the full faith and credit of the LDA.
6. Government guarantees of payment.
7. The authority of governments and public agencies to hold the LDA's securities.
8. The sources and manner of use of reserve funds set aside for repayment of the bonds.
9. Rights of the state or central government, such as the right to require redemption.⁴⁹

Rents and Other Revenues

The authority of the LDA to exact rents and other charges or revenues for services, leases or sales would ordinarily be covered in provisions relating to those functions. However, the finance sections might well contain a general grant of authority to make user or other appropriate charges for these purposes.

To meet the costs of particular improvements, the LDA might be authorized to levy special assessments or charges, such as:

⁴⁹New York State Urban Development Corporation Act.

Betterment levies against owners of property situated both within and on the periphery of project sites, for enhancement of the value of such property resulting from improvements made by the LDA (usually based on a percentage of enhanced market value, to be fixed by the LDA subject to certain limits).⁵⁰

Special assessments against property owners benefitted by projected improvements (e.g., water mains, streets) for contributions toward all or part of the costs of the improvements, allocated in accordance with some appropriate formula for measuring benefits to individual lot owners (e.g., on a frontage basis)

Establishment of improvement districts, most likely through the use of existing governmental machinery, as a method of administering the foregoing types of assessments in part or parts of a project area.

Assistance in the creation of voluntary associations to take some responsibility for providing, and meeting the costs of such common facilities as play areas and parking spaces.⁵¹

Mandated Municipal Tax Levies

For "the purpose of raising revenue for town planning purposes" the Lagos Executive Development Board "may by order require the town council and the town council . . . is . . . empowered to impose, levy and collect a . . . town planning rate"⁵². Municipal funds equal to one half percent per quarter on the annual rateable valuation of property in Calcutta are paid by the Municipal Corporation to the Calcutta Improvement Trust, and the Trust also shares in certain duties on the transfer of real property, and in certain customs, duties and terminal taxes.⁵³

⁵⁰ The Maharashtra Regional and Town Planning Act, 1966, Sec. 98-99; Lagos Town Planning Ordinance, Sec. 41; Israel Rehabilitation Zones (Reconstruction and Evacuation) Law, Sec. 45.

⁵¹ Law on Institutional Establishments, Sweden.

⁵² Lagos Town Planning Ordinance, Sec. 60-64.

⁵³ The Calcutta Improvement Act, 1911 (Bengal Act V of 1911).

Exemption from Expropriation;
Excess Expropriation

Some LDAs are authorized to acquire land not needed for project sites but liable to increase in value as a result of project improvements, as a method for recapturing the increment for the LDA's purposes. In one variation the land may be notified for acquisition, but in fact is not acquired if the owner applies for an exemption from the taking and pay an "exemption fee".⁵⁴ Alternatively, the land is expropriated and after being planned or developed is disposed of by public or private sale or lease.⁵⁵

Investment or Use of Surplus Funds

Enabling laws should specify the use to which surpluses may or must be put if they do accumulate.⁵⁶ The authority of the LDA to invest surplus or temporarily idle funds in limited classes of securities, usually those approved for investment of public or trust funds generally, should be supported by legislative expression.

Miscellaneous Fiscal Provisions

These might cover such subjects as:

1. The power to make loans in connection with the discharge of its various functions.⁵⁷
2. The preparation of annual budgets and procedures for their approval.⁵⁸
3. Maintenance and audit of LDA accounts.⁵⁹
4. The making and submission of annual financial statements.⁶⁰
5. Regulation of the deposit of LDA funds.⁶¹

⁵⁴Karachi Development Authority Order, 1957, Sec. 102.

⁵⁵Ibid., Sec. 103.

⁵⁶The New Towns Act 1965 (England), Sec. 45.

⁵⁷Laws of Malaysia, Act 46, 1971, Sec. 30.

⁵⁸Ibid., Sec. 23; The Maharashtra Regional and Town Planning Act, 1966, Sec. 131; Singapore Housing and Development Ordinance, 1959, Sec. 52.

⁵⁹The Maharashtra Regional and Town Planning Act, 1966, Sec. 132.

⁶⁰Singapore Housing and Development Ordinance, 1959, Sec. 51.

⁶¹The Maharashtra Regional and Town Planning Act, 1966, Sec. 130.

Relationships with Local Governments

Contractual Relationships

In its dealings with municipal, state or central government agencies performing localized functions, the LDA's position lies somewhere between that of a semi-autonomous public authority and a private land developer. Some statutory delegations authorize the LDA to override or preempt local government decisions in some matters, as for instance in site selection. In other respects the LDA has no higher status than a private property owner vis-a-vis the general government in the project area -- say in its conformity with general health regulations. It is impossible to determine in advance, by statute, the precise status of the LDA in each of its multifarious intergovernmental relationships. These relationships must be defined as they evolve, and the enabling law should explicitly authorize the use of formal contracts for the purpose.

The power should be open-ended to permit solution of a limitless variety of potential intergovernmental conflicts. It should be framed in sufficiently broad terms to allow either the LDA or the local government to relinquish or delegate part of its functions to the other on a negotiated basis, where a sharing of responsibilities may be preferred to exclusivity. Some illustrative subjects of the contracting power may be enunciated by law, or perhaps by rules or regulations issued by higher authority. They might include:

1. Dedications of land to the LDA and their subsequent resumption by the local government.
2. The provision of municipal services for the benefit of LDA project occupants.⁶²
3. The maintenance of parks or other public facilities within or adjacent to the project area where they are to be shared by residents of the larger community.
4. The installation, closing, paving and maintenance of roads and streets.⁶³
5. The joint exercise of planning and land use control powers.

⁶²ibid., Sec. 120.

⁶³The New Towns Act 1965 (England), Sec. 41; Lagos Town Planning Ordinance, Sec. 59.

The agreements may have to be exposed through prior newspaper publication,⁶⁴ and sanctioning by higher authority may be required.⁶⁵

Required Consultations

Another device for coordinating the decisions of LDAs and political subdivisions is the requirement that one consult with the other in certain situations of mutual concern. In Malaysia "no tax, rent, rates, or other charges with respect to any property in any" project area may be altered without the Urban Development Authority "having first been consulted," and the Authority may "submit any recommendation or proposal to the appropriate public authority" in connection with any such taxes, rents, rates or other charges.⁶⁶

Local Advisory Committees

New York State's Urban Development Corporation is required to "establish one or more community advisory committees to consider and advise the corporation upon matters submitted to them by the corporation concerning the development of any area or any project . . ."⁶⁷

Joint Participation in Subsidiary Corporations

The laws governing LDAs frequently authorize them to create subsidiary corporations under general corporation laws. The purposes are varied. A major use of the device is to establish semi-independent entities for ongoing management of projects, and where appropriate to share some of the responsibilities for advanced project planning and development.⁶⁸ Generally the LDA will insist on major representation in the governing body of the subsidiary corporation so long as the LDA has important functions to perform in respect to the project. The governing body would also include representatives of the concerned local governments, so as to provide a forum for reconciling the LDA's interests with those of the other public agencies.

⁶⁴The Maharashtra Regional and Town Planning Act, 1966, Sec. 123.

⁶⁵Ibid., Sec. 121.

⁶⁶Laws of Malaysia, Act 46, 1971, Sec. 18(2).

⁶⁷New York State Urban Development Corporation Act, Sec. 12.

⁶⁸Puerto Rico Land Law of 1941, Sec. 17; Laws of Malaysia, Act 46, 1971, Sec. 3, 33, and 4th Schedule.

Miscellaneous Provisions

No exhaustive or definitive listing of enabling provisions is possible. Some of the subjects commonly treated in legislation for LDAs, in addition to those mentioned above, are:

1. The power to adopt rules or by-laws governing internal operations of the LDA.
2. A general power to promulgate regulations governing the conduct of others in relation to the affairs and interests of the LDA.
3. The delegation of limited LDA functions to other agencies.
4. The right to make inquiries or investigations and engage in research.
5. The making of LDA contracts such as those for the construction of public works, in some cases requiring competitive bidding.
6. The appointment, qualifications, terms, compensation and allowances, pension rights, and disciplining of officers.
7. Filling of vacancies in offices.
8. Indemnity of officers from liability for corporate acts.
9. Restrictions on dual office holding and prohibitions against specified outside transactions or activities of officers.
10. The recruiting and appointment of staff and consultants, and various other staff personnel matters, including a clear statement regarding the application, if any, of laws and rules governing public personnel generally.
11. The lending of funds or property to other public agencies.
12. Various aspects of legal proceedings involving the LDA, such as the sanctioning of prosecutions by the LDA and designation of the courts in which the prosecutions may be instituted, penalties for violations, civil suits against the LDA, and the scope of and forum for judicial review of its decisions.
13. The manner of service of notices by the LDA.
14. The exposure of the LDA's plans and documents to public inspection.

15. The supersession of the LDA by the state, province or central government under given conditions of inaction or dereliction.

16. The dissolution of the LDA after it has served its purposes, and provisions regarding the transfer of its assets and liabilities to other public agencies.

BIBLIOGRAPHY

- Aaron, Henry J.; Bird., Richard M.; and Koss, Stephen L. Financing Urban Development in Mexico City. Harvard University Press, 1967.
- Abrams, Charles. Evolution in Land. New York: Harper Brothers, 1939.
- Abrams, Charles. Man's Struggle for Shelter in an Urbanizing World. Cambridge: M.I.T. Press, 1966.
- Abrams, Charles. Squatter Settlements - the Problem and the Opportunity. U.S.A.I.D. -- IME, No. 63.
- Austin, Allan G. and Lewis, Sherman. Urban Government for Metropolitan Lima. New York: Frederick A. Praeger, 1970.
- Beyer, Glenn H. Housing and Society. New York: The Macmillan Company, 1965.
- Brownfield, Lyman. The Disposition Problem in Urban Renewal, 35 Law and Contemporary Problems. _____, 1960.
- Calmfors, Hans; Rabinovitz, Francine; and Alesch, Daniel J. Urban Government for Greater Stockholm. New York: Frederick A. Praeger, 1968.
- Cannon, Mark W. Urban Government for Valencia, Venezuela. New York: Frederick A. Praeger, 1973.
- Cartwright, Hilary G. Land Development in France and Belgium: Law and Practice. British Institute of International and Comparative Law, Special Publication No. 5, 1964.
- Clawson, Marion (ed.). Modernizing Urban Land Policy. Johns Hopkins University Press (for Resources for the Future, Inc.), 1973.
- Clinard, Marshall B. Slums and Community Development. New York: The Free Press, 1966.
- Dozier, Craig L. Land Development and Colonization in Latin America: Case Studies of Peru, Bolivia, and Mexico. New York: Frederick A. Praeger, 1969.
- Duggar, George S. Renewal of Town and Village I, A World-Wide Survey of Local Government Experience, Urban Renewal Objectives and Practices of Local Governments. Marninus Nijhoff, The Hague (for International Union of Local Authorities), 1965.

- Edwards, Gordon. Land, People and Policy. West Trenton, New Jersey: Chandler-Davis Publishing Company, 1969.
- Grebler, Leo. Urban Renewal in European Countries: Its Emergence and Potentials. Philadelphia: University of Pennsylvania Press, 1964.
- Grebler, Leo. Land Assembly and Relocation in Urban Renewal: A Study of European Methods. Los Angeles: University of California, 1963.
- Hanson, A.H. Public Authorities in Underdeveloped Countries, 26 Law and Contemporary Problems 619. _____, 1961.
- Herbert, John D. and Van Huyck, Alfred P. Urban Planning in the Developing Countries. New York: Frederick A. Praeger, 1968
- International Congress for Housing and Town Planning (XXII). Slum Clearance and Rehousing. Edinburgh: 1954.
- International Federation for Housing and Planning, Housing and Planning Conference Papers No. 2. Practice and Experience in Land Acquisition Policies. The Hague: 1969.
- Johnson, Katerine Marshall. Urban Government for the Prefecture of Casablanca. New York: Frederick A. Praeger, 1970.
- Koh, T.T.B. "The Law of Compulsory Acquisition in Singapore." The Malayan Law Journal. August, 1967.
- Koth, Marcia N.; Silva, Julio G.; and Dietz, Albert G.H. Housing in Latin America. Cambridge: M.I.T. Press, 1965.
- Laquian, Aprodicio A. The City in Nation-Building. Manila: University of the Philippines, School of Public Administration, 1966.
- Lloyd Rodwin and Associates. Planning Urban Growth and Regional Development: the Experience of the Guayana Program of Venezuela. Cambridge: The M.I.T. Press, 1969.
- Lowenfeld, Andreas (ed.). Expropriation in the Americas: A Comparative Law Study. New York: Dunellen (for Columbia University Inter-American Law Center Project on Private Property in the Americas), 1971.
- McFarland, John R. The Canadian and American New Town Programs. St. Louis, Missouri: Washington University School of Law, 1965.
- Planning and Development Collaborative International. A Proposal for an Urban Development Corporation in Tanzania. Washington, D.C.: 1969.
- Rodwin, Lloyd. The British New Towns Policy. Cambridge: Harvard University Press, 1956.

Turner, John F.C. Uncontrolled Urban Settlement: Problems and Policies, in United Nations. New York: United Nations: Department of Economic and Social Affairs, International Social Development Review, No. 1, Urbanization: Development Policies and Planning, 1968.

Turner, John F.C. "Barriers and Channels for Housing Development in Modernizing Countries." American Institute for Planners. May 1967.

United Nations. Proposals for Action on Finance for Housing, Building and Planning. Department of Economic and Social Affairs. New York: 1972.

United Nations. Report of the Ad Hoc Group of Experts on Housing Urban Development. Department of Economic and Social Affairs. New York: 1962.

United Nations. Proceedings of the Seminar on the Supply, Development and Allocation of Land for Housing and Related Purposes. (3 Vols.). Economic Commission for Europe. Paris, France: 1965.

United Nations. "Urban Land Problems and Policies." Housing and Town and Country Planning Bulletin No.7. New York: 1953.

United Nations. Urban Land Use Policies and Land Use Control Measures. Department of Economic and Social Affairs. (Volumes for Africa, Asia and the Far East, Western Europe and Latin America) New York: 1973.

United Nations. Public Administration Problems of New and Rapidly Growing Towns in Asia. Technical Assistance Program. New Delhi.

United States Agency for International Development. Ideas and Methods Exchanges.

United States Agency for International Development. The New Urban Debate. Report of the Pacific Conference on Urban Growth. Honolulu, Hawaii: May, 1967.

United States Department of Housing and Urban Development. European Housing Subsidy Systems: An American Perspective. Office of International Affairs, 1972.

United States Department of Housing and Urban Development. Urban Growth Policies in Six European Countries. Office of International Affairs, 1972.

United States Department of Housing and Urban Development. Urban Land Policy - Selected Aspects of European Experience. Office of International Affairs, 1969.

- United States Department of Housing and Urban Development. Housing Country Report Series.
- Violich, Francis. Cities of Latin America; Housing and Planning to the South. Reinhold Publishing Corp. 1944
- Walsh, Annmarie Hauck. Urban Government for the Paris Region. New York: Frederick A. Praeger, 1968.
- Walsh, Annmarie Hauck. The Urban Challenge to Government. New York: Frederick A. Praeger, 1969.
- Wendt, Paul F. Housing Policy: The Search for Solutions. Berkeley: University of California Press, 1963.
- Williams, Babatunde A. and Walsh, Annmarie Hauck. Urban Government for Metropolitan Lagos. New York: Frederick A. Praeger, 1967.